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METHODS

&

MACHINERY OF BUSINESS

By the same Author

Joint Stock Banking in India 1938

THE POPULAR BOOK DEPOT

Grant Road, Bombay 7

METHODS & MACHINERY OF BUSINESS

*Approved by the Board of High School and
Education, Ajmere and Punjab Board
of Education*

BY

D S SAVKAR, B A (HONS) M-COM

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THIRD EDITION

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P R E F A C E

This book is primarily meant for the use of students, though business men also may find it useful. It makes an attempt to explain the methods and machinery of business as it obtains in India. Though there are many books on the subject, nearly all of them, being designed for the use of English students, do not deal with Indian conditions and practices. Universities in India in prescribing the course, however require, and rightly so, that the subject should be studied with special reference to Indian conditions. It is, therefore, hoped that this book will be found suitable by the students of Indian universities and by the students appearing for the various Diploma examinations of the private mercantile institutions.

In arranging the subject matter it was thought essential to deal in broad outline first with the growth of commerce, the different forms of commercial organisations and the organisation of trade to make the understanding of business practices intimately related to them easy. Thus Chapters I to III deal with the preparation of the ground. Chapters IV to X deal with business methods. Chapter XI deals with the postal and telegraphic information a knowledge of which is quite essential for every student of commerce. It is hoped that this arrangement would be found convenient.

In writing this book I found a number of books on the advanced theory and practice of commerce very useful. Among them a mention may be made of the *Theory and Practice of Commerce* by Bucknill, *Principles and Practice of Commerce* by Stephenson, *Commerce its Theory and Practice* by Thomas, *Business Organisation* and

Routine Campbell, *Business Organisation and Personnel* by Holland I am indebted to these authors for the mine of information bearing on business practices which their books contain

For want of time this book had to be rushed through the press I am, therefore, conscious of the fact that many errors in proof correction must have passed unnoticed and are likely to annoy the reader I am solely responsible for them and crave the indulgence of the reader

AHMEDABAD

D S SAVKAR

15th August, 1939

PREFACE TO THE SECOND EDITION

The reception accorded to the first edition of this book by the students and the public has encouraged the author to bring out a second edition The book has been also recently approved by the Rajputana Board of High School and Intermediate Education and recommended for the students of the Intermediate Commerce Examination. This recognition necessitated certain additions to the book. Chapters XI and XII on the Law of Contracts and the Law relating to the Sale of Goods have, therefore, been added The book has been also revised in certain parts to make it more useful to the students of the F Y Commerce class The author feels confident that the teachers of the subject and the public would continue to make suggestions as before, so that further improvements could be made in the book in its subsequent editions

AHMEDABAD

1st July, 1941

D S SAVKAR

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METHODS AND MACHINERY OF BUSINESS

CHAPTER I THE GROWTH OF COMMERCE

To understand fully the Methods and Machinery of Modern Business and the significance in achieving business success it is necessary to know the growth of commerce and its present size. International commerce today is so vast and so vital in the life of nations that the student of commerce cannot afford to ignore the causes of its rise. A study of these causes today is all the more necessary because of the new forces born of the post war world which have threatened its future. The recent ideal of the economic self sufficiency cuts at the root of the international trade.

But before discussing the rise of commerce it would be appropriate to explain the terms trade and commerce as a mistake is often made about their meaning. Trade means the exchange of commodities for money and money for commodities i.e., in a narrow sense the process of buying and selling of goods. This connotation explains the use of such phrases as home trade foreign trade coal trade or tea trade. But this exchange of goods which the trader arranges between the producer on the one hand and the consumer on the other becomes difficult beyond a certain stage without the use of other auxiliary services.

like transport, banking and insurance. Commerce, therefore embraces, in addition to the national and international trade of a country, the use of other services just stated. Hence Commerce is a more comprehensive term and has a wider significance than trade.

Commerce has become complex and developed into astounding dimensions only recently. In the primitive society when wants were limited and each family was self-supporting, commerce was practically unknown. But gradually as the wants increased, their satisfaction by the limited skill available in the family became difficult. To satisfy them, therefore, means had to be devised. The products of the skill of a person or a family were exchanged for the products of the skill of another. This led to the process of specialisation and division of work (technically known as the division of labour) in a crude form. The state of isolation of families gave place to dependence and consequently to the exchange of goods between them. But as use of money medium was unknown, goods were exchanged for goods. This came to be known as the system of barter. In due course, this system must have been found difficult and inconvenient, as it required the double coincidence of wants and possessions. It means that between two persons, what one has to offer must be capable of satisfying the want of the other and what the other possesses must be capable of satisfying the want of the former. Besides this there were many other defects in the system of barter. The use of money, therefore, was discovered as the medium of exchange. At different stages of progress of the society it took different forms, such as beads, oxen, etc. They facilitated the exchange of goods greatly and made possible the extension of specialisation and division of labour in production. Increasing dependence enhanced opportunities for human contracts.

and exchange of thoughts. With the resultant growth of knowledge and the economic development of the world, the medium of exchange took the form of metallic money and paper currency. The use of money medium and the growth of the means which facilitate the exchange of goods, commerce in its modern form made its appearance. Thus from a very humble beginning trade developed into national and international commerce extending over the length and the breadth of the world.

Commerce, however, did not develop in the bygone centuries with the same swiftness as one is likely to be led to believe from the outline given above. Its progress from century to century was extremely slow alike in the East and the West. The notable development of European commerce dates back to the second half of the Middle Ages. In the east, however, India with her relatively advanced civilisation was successful in building up trading connections with Babylon as far back as 3000 B.C. There is also evidence to show that there was a considerable consumption of Indian manufactures in Rome. The muslins of Dacca were known to the Greeks under the name of Gangetika. Notwithstanding these creditable records, it must be admitted that until the fifteenth century even India's trade and commerce developed slowly and were limited in scope.

The difficulties that rendered the progress of commerce slow were many and varied. Prominent among them were the difficulties of transport, the general prejudice against merchants and traders, and the absence of stable and sound monetary systems. Even as late as the twelfth and the thirteenth centuries, it was found that the roads were poor and few and no better than rough earthen tracks dangerous for wheeled traffic; there were no dependable bridges and forests were not yet cleared. Moreover

trade was made difficult by the existence of tolls and customs duties trade restrictions and savage wars. The international trade was also equally difficult because of the small and imperfectly constructed vessels piracy and frequent wars. Similarly, merchants and traders were looked down upon by the so called respectable classes. There is evidence to show that in Europe till the Middle Ages the church and the feudal system were prejudiced against them. In India also a trader's profession was regarded as inferior to that of an agriculturist. The monetary systems also were in a bad state. A number of currencies were in use. Their relations were not properly settled. Tampering with their contents was not uncommon. In the absence therefore of widely and generally acceptable money the range of trading connections was very much restricted. Besides these factors which placed insurmountable difficulties in the path of commerce, the backward condition of agriculture and manufacture must also be held as partly responsible for its slow growth. ✓

The modern era in commerce may very well be presumed to have started with the epoch making geographical discoveries which brought the countries of the world nearer to each other. The discovery of America and a sea route to India in the fifteenth century opened immense possibilities of commerce. It is patently known that the latter event gave a fillip to India's trade with the Portuguese the Dutch the English and the French. Thus although commerce began to grow from the fifteenth century onwards the revolutionary changes came only in the last hundred and fifty years. The 'Industrial Revolution' in England which started in the eighteenth century introduced changes in the economic structure of one country after another and had been mainly responsible for the romance of modern commerce.

The application of machinery in place of antiquated tools in the production of manufactured goods revolutionised industry. A number of new industries sprung up. The unit of production underwent a change and large scale production became the order of the day. Competition in production tended to reduce prices to the consumer. The basis of production also had to undergo a change. Formerly goods were produced to order but now they began to be manufactured in anticipation of demand. The problem before the producer therefore, was to find markets for these goods wherever possible. To do that the wheels of commerce had to be quickened.

Vital changes were also taking place in agriculture. Small holdings were being replaced by large ones. The spread of scientific knowledge helped to improve the technique of agriculture. More land was brought under cultivation. The yield from land increased requiring extension of markets. This is true more of the West than of the East. In the Eastern countries the changes have been rather slow.

Transport and communications also have gone hand in hand with the progress in other directions. The construction of roads improved and wheeled traffic was speeded up. Within and outside a country space was conquered by the construction of railways, steamships and now airships. Further, the telephone, the telegraph and the wireless helped communication of thoughts quickly, cheaply and easily.

Money and banking too have evolved in directions helpful to commerce. Sound banking systems and stable monetary connections have proved salutary to the growth of commerce. Exchange of goods between countries speaking different languages and using different currencies has been made possible by the changes in the field of finance.

The list of factors which have been responsible for the revolutionary changes would be incomplete without the mention of improved education that is imparted today to men and women. Their knowledge, information, grasp of things, in short their ability—has—certainly improved. Educational institutions and newspapers have fitted them well for commerce. They have created a scientific outlook in them. The growth of commerce has made the problem of business organisation even more difficult. But the improved ability of man has succeeded in tackling it scientifically. Finally the movement for free trade aimed at abolishing all restrictions on commerce. It started in the eighteenth century as a result of the preachings of Adam Smith and spread from England to many countries of Europe. It held sway during the nineteenth century though latterly it suffered defeat. Its effect on commerce, however, was unmistakable. The international trade increased by leaps and bounds.

All these factors have been responsible for making commerce what it is today. In a world of changing economic conditions, ups and downs are bound to be common. There have been occasions when international commerce received setbacks. But such setbacks were temporary. Otherwise the progress of commerce has been unimpeded in the past.

Qimp ✓ CHAPTER II.

TYPES OF COMMERCIAL ORGANISATIONS

As trade began to grow in complexity and extent, the persons engaged in conducting it organised themselves into various types of business establishment. Their aim is mainly to supply goods and services demanded by consumers but their ability to fulfil this aim in its entirety varies according to the extent of their organisation and financial strength. To classify them on this basis for the purpose of study would be, apart from being anomalous, nearly difficult and inconvenient. The generally accepted criterion, therefore, is to classify them according to ownership into the following forms :—

- (i) The sole trader
- (ii) The partnership, and
- (iii) The joint stock company

Sole Trader

Definition — A sole trader is a person who generally carries on business by himself and on his own account. Normally he provides his own capital, but if occasion demands it, he supplements it by loans from friends and relatives. In guiding and supervising his business he depends on his own skill and ability, though limited. Indisputably, therefore, the expansion of such a business is limited by the extent of the available capital and the managerial ability.

The legal position of a sole trader is very simple to understand. Any person with an enterprising spirit

restricted to ten if the firm is engaged in banking business and to twenty in other cases. Further, the liability of each partner is unlimited. In the event of bankruptcy of a firm if its assets are not sufficient to satisfy all the creditors the private estate of a partner will be used to make up the deficiency.

The Partnership Agreement — The partnership agreement which, as stated before, forms the basis of a firm, may be written or may be verbal, or it may be even implied by the conduct of the parties. But to avoid disputes and legal proceedings regarding the exact wording later on, it is desirable, and partners generally prefer, to enter into a written agreement. In practice it is advisable that the would be partners should engage the services of a legal expert to frame the Articles of Partnership. Some of the important points generally stated in such an agreement are (1) The name of the firm or designation under which it will conduct business, (2) the nature of the business, (3) how long the partnership is to last and the method of dissolving it, (4) the amount of capital each partner must contribute, (5) interest on capital and allowances to be paid to individual partners, (6) the distribution of profits and losses, (7) procedure in the event of the death of a partner or dissolution etc., (8) How to settle matters in dispute, (9) keeping of proper books of accounts and the making up of an annual balance sheet, (10) restrictions on a retiring partner from setting up a competitive business, etc.

Different Types of Partnership — The different types of partnership are decided according to the position of the members with regard to their liability towards the debts of the firm. If the liability of all the members is unlimited, it is known as a general partnership. If, however, the liability of one or more members is limited

to the capital contributed by them, and of others unlimited, it is known as a limited partnership. But a limited partnership cannot come into existence unless there are one or more general partners who shall be liable for all debts and obligations of the firm. Limited partnership has come into vogue in western countries only recently and is meant to facilitate the entry of such partners who can contribute to the capital of a firm but do not want to bear the unlimited risks incidental to it.

Within a partnership the positions of partners may vary according to the degree of their interest in its management. A partner may be (a) active or ordinary, i.e., one who takes an active and open part in the management of the enterprise, (b) sleeping, dormant or silent, i.e., one who contributes capital and shares profits but does not take an active part in conducting the business, (c) nominal, i.e., one who neither contributes capital nor shares profits, but lends his name to the appellation of the firm. One who holds himself out or represents as being a partner, without actually being so, also stands on the same footing. He is liable to creditors like other partners.

Rights and Duties of partners — The rights and duties of partners *inter se* have been governed by the rules laid down in the Indian Partnership Act unless there is a provision to the contrary in the partnership deed. The following are the rules: (1) all the partners are entitled to share equally in the profits earned and are also liable to contribute equally to make up the losses suffered by the firm; (2) the firm shall indemnify a partner in respect of payments made and liabilities incurred by him in the ordinary and proper conduct of the business; (3) a partner shall indemnify the firm for any loss caused to it by wilful neglect in the conduct of the business of the

firm, (4) the property of the firm shall be held exclusively for the purpose of the business, (5) if a partner derives any profit for himself from any transaction of the firm or from the use of the property or business connection of the firm, or the firm's name he shall account for that profit and pay it to the firm, (6) if a partner carries on any business of the same nature as and competing with that of the firm he shall account for and pay to the firm all profits made by him in that business, (7) every partner is entitled to take part in the management of the business, (8) any difference arising as to ordinary matters connected with partnership business may be decided by a majority of the partners but no change be made in the nature of the partnership business without the consent of all the existing partners, (9) every partner has a right to access to inspect and copy any of the books of the firm, (10) a partner is not entitled to receive remuneration for taking part in the conduct of the business, (11) where a partner is entitled to interest on capital subscribed by him, such interest shall be payable only out of profits, (12) where a change occurs in the constitution of the firm, the mutual rights and duties of the partner in the reconstituted firm remain the same as they were immediately before the change, (13) where a firm constituted for a fixed term continues to carry on business after the expiry of the term the mutual rights and duties of the partners remain the same as they were before the expiry, (14) where a firm constituted to carry out one or more adventures carries out other adventures, the mutual rights and duties of the partners in respect of the other adventures will be the same as those in respect of the original adventures, (15) no person shall be introduced as a partner into a firm without the consent of all the existing partners.

Dissolution of Partnership—A partnership may be dissolved by the partners according to the terms of the partnership deed at any time by the common consent of all the partners. The Indian Partnership Act provides rules for the dissolution of firms in other circumstances given below. A partnership is dissolved—

- (a) by the adjudication of all the partners or of all the partners but one as insolvent or by the happening of an event which makes it unlawful for the business to be carried on
- (b) by the expiration of the term if constituted for a definite term
- (c) if entered into for a single adventure or undertaking by the termination of that adventure or undertaking,
- (d) by the death of a partner
- (e) by the adjudication of a partner as an insolvent,
- (f) if the partnership is at will, by any partner giving notice for dissolution,
- (g) through court by a suit brought by a partner for dissolution on the ground of, lunacy or permanent incapacity of a partner, or misconduct or breach of agreement and destruction of mutual confidence, or any other just and equitable ground

Its Utility—Partnership as a form of organisation is very useful to a business man when he finds it difficult to cope with his undertaking single handed after a certain stage because of the limited skill and capital which are at his disposal. He therefore brings together men with varied abilities having some capital into a partnership. The partnership constitution possesses a certain amount of elasticity which not only permits a joint venture by men of different temperaments but if conditions change

the very objects and the nature of the business can be adjusted to changed conditions. As the partners are liable for the debts of the firm jointly and severally, it stands better chances in securing credit than a single individual. In the management of business also, because the liability is unlimited, every partner gives, or tries to give his best attention lest he should suffer losses. Thus this form of organisation is very common in commercial establishments and small manufacturing concerns. It is generally found in large numbers in retail trade.

Joint Stock Company

Definition —A joint stock company is an association of persons united for a common object. In India any association consisting of more than ten persons formed for the object of doing banking business or consisting of more than twenty persons doing any other business must be registered as a company under the Indian Companies Act. The liability of the members of such a company is usually limited. Such a company is an artificial person created by law, having a common seal and a perpetual succession. The company, therefore, is not dissolved by the transfer of shares, of a member, called shareholder, or even by his death. It can enter into contracts on its own behalf, deal with its property, and sue and be sued in its own name.

Their Different Classes —Under the Indian Companies Act, companies may be registered as (a) private or, (b) public companies.

A private company is one—

- (1) which consists of at least two members but whose membership does not exceed fifty ;
- (2) which restricts the right to transfer its shares ;
- (3) Which does not invite the public to subscribe for its shares

A public company—The Act does not define what is a public company. It merely states that a company which is not a private company is a public company. From this, however, it may be concluded that in a public company the number of members may be more than 50. There may not be any restrictions on the transfer of shares, and it is not prohibited from inviting the public to subscribe to its shares or debentures. A public company must have at least three directors and at least seven members. Further, there are three kinds of public companies that can be registered under the Act —

- (a) *Company Limited by Shares*—In this kind of company the liability of shareholders is limited to the amount of the shares. Consequently it is a very popular form of organisation.
- (b) *Company Limited by Guarantee*—The liability of the members in this case is limited to such amount as they may agree to contribute to the assets of the company in the event of its being wound up. Such companies are few in number and are generally found in non-trading concerns.
- (c) *Unlimited Company*—In such a company each member undertakes personal and unlimited liability for all the liability incurred by the company in the course of its business. There are now very few companies of this type.

Mode of forming a company—A joint stock company may be started for undertaking a new business or for acquiring an existing one. Before it can commence business, it must be registered. The procedure followed in registering a company under the Indian Companies Act is as follows. The documents mentioned below shall be prepared and filed with the Registrar of Joint Stock

Companies of the Province where the company's office will be situated —

- (1) The Memorandum of Association duly stamped
- (2) The articles of Association properly stamped, if they have been formulated
- (3) A list of directors who have consented to act in that capacity
- (4) A statement containing the written consent of each director to act as such
- (5) A statement regarding the situation of the registered office of the company
- (6) A declaration by an advocate attorney or pleader or director manager or secretary of the company to the effect that the requirements of the Act have been complied with

When these documents are duly filed with the Registrar and the prescribed fee is paid he issues a certificate of incorporation. Hereafter the company is regarded as registered and as a body corporate. Soon after the certificate of incorporation is issued a private company can commence business. A public company, however has to satisfy further the following conditions before it can do so

- (a) Filing with the Registrar a copy of the Prospectus or a Statement in lieu of Prospectus
- (b) The allotment of shares to an amount equal to or more than the minimum subscription amount
- (c) The payment by every director on the shares purchased or contracted to be purchased equal to the proportion payable on application and allotment of the shares offered for public subscription

- (d) A duly verified declaration by the secretary or one of the directors to the effect that the above conditions have been fulfilled

The company can now commence business when the Registrar issues the necessary certificate

While discussing the registration of companies mention has been made of phrases like the Memorandum of Association, Articles of Association and Prospectus. It is, therefore necessary to explain them in brief

Memorandum of Association—It is the main document of the company. It is by the registration of this document that a company is incorporated. It must contain the name of the company, with the word limited as the last word in its name, the Province in which its registered office is to be situated, its objects, the liability of its members, the amount of the share capital with which it proposes to be registered and the division thereof.

Articles of Association—These are the rules and regulations governing the internal management of the company in all its details. The company may frame its own rules or it may adopt the sets of rules given in the Act.

Prospectus—It is an invitation offering to the public for subscription shares or debentures of a company. It must disclose information bearing on a number of points as stated in the Act, so that a purchaser purchases shares with the full knowledge of the status of the company.

Capital and Shares—Unlike the sole trader or partnership the maximum capital of a company is fixed by its Memorandum. It is divided into the following categories

- (a) *Nominal or Authorised*—It is the amount beyond which a company is not authorised to issue its share capital.

- (b) *Issued*—It is that part of the authorised capital which is issued to the public for subscription
- (c) *Subscribed*—It is that portion of the issued capital which is sub-cribed to or purchased by the public
- (d) *Paid up*—When the capital of a company is subscribed to by the public, generally it does not call up the whole of the amount forthwith. It collects it in the form of calls at intervals. Paid up capital, therefore, is that portion of the called-up capital which has been actually received by the company in cash from the shareholders

Shares—A company issues its capital in the form of shares. They are broadly divided into three classes according to the rights attached to them

- (a) *Preference Shares*—The holders of these shares get a priority of dividends at a fixed rate. They may be also given priority in the return of capital if the company is wound up. If the preference shares are cumulative, the holder is entitled to get the arrears of dividend in the past years from the profits of subsequent years. In the case of non cumulative preference shares the holder does not get any such right
- (b) *Ordinary Shares*—After the preference shares have been paid, these shares acquire a right to the surplus profits of the company. As the amount of such surplus is varying, the rate is not constant
- (c) *Deferred or Founder's Shares*—These shares are usually granted to persons who have

taken part in the ¹liquidation of the company. They are shares which are deferred as regards payment. They are therefore entitled to profits only after other shareholders have been paid at a fixed rate per cent.

Management of a Company—The number of shareholders in a joint stock company is generally so large that every one cannot take part in its management from day to day. Usually therefore, they select a few persons from among themselves to do this work. These selected persons are known as Directors. All of them together constitute what is known as the Board of Directors. A public company must have at least three Directors. On private companies however, there is no such restriction.

The Board of Directors generally meets periodically. It deals with important matters and lays down a policy. To carry out this policy in the day to day working they appoint one member of the Board as the Managing Director.

In India, however, there is a practice to leave the active management in the hands of a specialised firm known as the Managing Agents. But even their management is subject to the control and directions of the Director.

The shareholders who are the ultimate owners of a company meet periodically to review its progress. After a company is entitled to commence business, a meeting of the shareholders must be held within six months and after one month of the commencement of business. It is known as the Statutory Meeting. Thereafter every year an Ordinary General Meeting must be called. If however any matter of urgency arises which requires the sanction of the shareholders an Extraordinary General Meeting

may be called. Thus through these meetings they control the management of a company.

Winding up—A company cannot be made insolvent. If for one reason or the other the life of a company is to be brought to a close it can be done by the process known as 'winding up' or 'liquidation'. There are three ways in which a company is wound up.

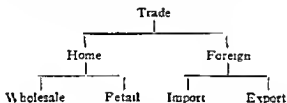
- (a) *Voluntary Winding up*—In this case the winding up process starts after a resolution to that effect is passed by the shareholders in a general body.
- (b) *Compulsory Winding Up by the Court*—The court starts compulsory liquidation, *Inter alia* on the presentation of a petition for winding up by the company or its creditor or a member, or by all or any of them.
- (c) *Winding up under the supervision of the Court*—This process is resorted to when the shareholders or the creditors apply for supervision order by the court when the company has gone into voluntary liquidation.

Its Utility—The joint stock company form of organisation is more useful than partnership or coeman business where the undertaking is such that it requires a very large capital, expert knowledge and capacity to stand great risks. As the liability in such companies is limited, both rich and poor can invest their savings without fear. Further, the changes in membership by transfers of shares do not affect the life of the company. It has, therefore, more stability and continuity than a partnership. This form of organisation, therefore, is very well suited for undertaking large scale enterprise and even risky propositions.

CHAPTER III

THE ORGANISATION OF TRADE

Different Classes of Trade—All productive activity in modern society is primarily directed towards production of goods and services which satisfy the various wants of the people. On one side therefore, are producers who produce goods and on the other, the consumers who satisfy their wants with them. Trade, therefore, consists in the actual exchange of goods between the producer and the consumer through some agency. In this sense trade is divided into different classes as shown below —



Before proceeding further it is necessary to explain the above mentioned terms

- (a) *Home trade*—This term refers to the buying and selling of goods for delivery within the boundaries of a particular country
- (b) *Foreign Trade*—It means the exchange of goods between two different nations
- (c) *Wholesale Trade*—This refers to that portion of trade in which goods are bought or sold in large quantities
- (d) *Retail Trade*—When goods which are bought wholesale are sold in small quantities or even

in single articles to the public, the transactions are known as retail trade

- (e) *Import Trade* —It is that portion of the foreign trade which helps to bring goods produced in foreign countries into home country
- (f) *Export Trade* —It consists of the supply of home goods for consumption in foreign countries

Organisation of the Home Trade —The internal trade of a country, though it varies with the size of the country and its population, is generally large and extensive. A very keen competition prevails among the traders. They, therefore, must have a fairly good knowledge of the commodities in which they deal and of the needs of the consumers.

Though it may sound paradoxical, home trade may be said to be simple and yet complex. It is simple because in many cases it gives opportunities to the producer to sell direct to the consumer. But as the country develops such transactions grow fewer and fewer. It is complex because in modern times the gulf between the producer and the consumer is bridged by the intervention of a number of agencies. A knowledge of these agencies which have become indispensable is necessary.

In its modern aspects the home trade organisation consists of three divisions

- (a) Collecting
- (b) Intermediary
- (c) Distributing

The collecting trade is composed of business houses and traders whose function is to place a variety of goods on the home market in a usable form. They are mainly Adhatyas and commission agents.

The intermediary trade consists of those merchants and establishments which take over the goods from the first class and usually store them for facilitating purchase by the third class. This class, therefore, consists of wholesale trading houses and warehousing. Merchants engaged in this class generally buy in bulk and sell in small quantities.

The work of the distributing trade is to ensure a constant supply of goods to individual consumers. The range of such business is very large in as much as it includes establishments from a small shop to the Departmental Stores and Multiple Shops.

Markets

Meaning of the term Market.—The term 'Market' has been interpreted in many ways. In common parlance, 'a market includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, articles intended for satisfying human wants what-so-ever, with or without the consent of the owner of such a place'. Considered in this sense a market would include, besides organised markets, even weekly bazaars and the buying and selling at street ends. The term 'Market' in economics however, has a wider meaning. According to it the essential idea of a market is not so much the existence of some particular place, as the presence of effective competition. It therefore, means that the buyers and sellers should be in such free intimate contact that the price of the commodity in question tends to be uniform throughout the extent of the market. In this sense 'a market will mean the whole of any region in which the buyers and sellers are in such free intercourse with one another that the prices of the same goods tend to equality easily and quickly'. Now a days, therefore, markets for certain commodities are world wide.

Classification of Markets — Markets may be classified as (a) Commodity Markets : i.e. those which are concerned with the buying and selling of commodities like cotton, wheat, wool, jute, etc. or semi-manufactured and manufactured goods like yarn, jute goods, etc. (b) the wholesale markets : i.e. those which supply goods from the producer to the retailer. (c) the retail markets : i.e. those which link the wholesaler and the consumer. (d) the ancillary markets are those which facilitate the conduct of business on the commodity markets. They are the Capital Market, the Money market, and the Foreign Exchange market. The first supplies the savings of the people of traders and manufacturers generally for a long term. The second which is strictly a part of the first mostly deals in short term loans. The third one is concerned with the buying and selling of international currencies and is a necessary institution for foreign trade.

Condition of a perfect market — The degree of perfectness which a market can reach depends on the prevalence of the following conditions —

- (a) *Free Competition* — In a market free competition prevails when all the sellers and buyers act solely in their interests without any hindrances from outside. As a result of it at a certain point of time the ruling price of a commodity will tend to be uniform.
- (b) *Easy means of Communication and Effective Transport* — The sellers and buyers in a market must be in instant communication with each other though they may be separated by long distances. This means that the systems of the telegraph, the telephone and the wireless must be available for quick transmission of information. Similarly, the

transport system must be such that goods can be transported from place to place quickly, safely and economically. It helps to establish equilibrium between the supply of and demand for a commodity.

- (c) *Wide extent* — The wider the extent of market the less is the economic resistance to the adjustment of the price of a commodity to changes in its supply and demand. Whether or not a commodity enjoys a wide market depends on the following factors: (1) extensive demand, (2) portability of the commodity, (3) suitability for grading, sampling and exact description, (4) durability of the commodity, and (5) extensive supply.

Marketing Functions — Markets really supply the means by which trade can function. They bring together persons for the purpose of buying and selling. It is through them that commodities produced at a number of centers are concentrated in places of vantage and then distributed through various channels to final consumers. Concentration and distribution of goods, therefore, are two processes of great importance which constitute marketing. The success of the modern economic structure largely depends on the efficient functioning of these two processes in as much as the institutions engaged in production, particularly manufacturing industries are producing goods rapidly and in bulk. To help these processes work successfully there are a number of functions which are closely related to marketing.

- (1) *Assembling* — When there are numerous centres of production, as in agriculture, this function assumes importance. In manufacturing also this function may be seen to be resorted to

when a particular article is produced in a large variety and the dealer assembles all of them together to give choice of selection to his customers. The main object of this function is to secure the economies of handling goods.

- (2) *Grading and Standardising*—Grading means assorting commodities into groups according to size, colour, smell and quality. Once grades have been fixed, trying to produce them over long periods of time is known as standardising. These functions are particularly of great importance in marketing agricultural commodities produced in a great variety. Grading and standardising are also very useful in trading operations. The buyer when he buys goods by grades knows what he is buying and whether the price that he pays is normal. To the seller also they are useful from the point of securing him a fair price for his goods. Grading and standardising immensely help insure transactions in which the delivery of the goods is to be given at some future date and the buyer generally gets no opportunity of seeing the commodity at the time of purchasing.
- (3) *Packing*—This is associated more with manufacturing than with marketing. However, in wholesale business the trader generally repacks articles in smaller quantities for the benefit of the retailers.
- (4) *Processing*—It means treating materials in such a way as to make them ready for consumption. In this sense processing is really connected

with manufacturing. In marketing however, it is resorted to casually, e.g. the blending of tea of two or more kinds into a mixture.

- (5) *Market Research* — Now a days no trader can hope to succeed without studying markets. He must know the requirements of his customers regarding goods from the point of quality, design, fashion and price. The object of market research, therefore, is to supply the trader with the necessary information.
- (6) *Salesmanship* — Briefly stated, it is the art of selling goods. Salesmanship therefore helps to widen the market.
- (7) *Advertising* — It is the art of making known the goods. Advertising may be done through newspapers, magazines, street posters, handbills, catalogues, etc. Like salesmanship, advertisement helps to widen the market for a commodity. The difference between salesmanship and advertising is that the first aims at appeal to an individual customer, while the second one devises its measures to groups.
- (8) *Transport* — The utility of transport in carrying on trade lies in this that it supplies the means by which goods can be conveyed from the place of production to the place of consumption. In modern times when goods are produced on a large scale by specialised agencies and may have to be distributed in distant areas, transport is really the life blood of efficient marketing.
- (9) *Storage* — Now a days goods are produced in anticipation of demand. Necessarily, therefore, some time passes before goods are finally

purchased by the consumers. Further, in these days there is a tendency on the part of the consumer to buy in just sufficient quantities. The trader, therefore, is required to store goods until they are purchased. Storage facilities therefore also form a part of the marketing service.

- (10) *Finance* — As stated above there is a time lag between production of goods and their final purchase. During this period, therefore traders require credit. This is supplied, among many other agencies, by commercial banks, financing houses and chroffs. Without this service marketing would become difficult.
- (11) *Insurance* — The meaning of insurance is to provide against risks. Generally goods are open to many risks. They may be destroyed by fire or stolen or damaged by rains. A trader, therefore, tries to shield himself from these losses by insuring his goods with insurance companies which make it their business to shoulder such risks. Insuring goods against risks, therefore, also forms a marketing function.

The Wholesale Trade

In the modern productive system, as stated before goods are produced in bulk and in anticipation of demand. The various establishments engaged in such production generally specialise in some one or more articles and concentrate their skill in manufacturing them at cheap cost. To achieve the last mentioned object, they establish their plant at a place of vantage where they hope to secure economy in buying raw materials, labour services, power etc. This is known as localisation of industry.

Thus with these characteristics of modern industry a manufacturer cannot hope to reach each and every consumer conveniently. Hence a number of middlemen intervene between the producer and the consumer. They are mainly the wholesalers and the retailers.

The wholesale trader therefore, is a middleman who buys in large quantities from the manufacturer and sells in smaller quantities to the retailers. He usually restricts his trading activities to a small number of articles more or less inter-related to each other. Thus he is supposed to be an expert in the class of goods in which he deals.

His Functions in relation to the Manufacturer —

The wholesale trader performs a number of functions which are useful to the manufacturer. The former collects small orders from the retailers and passes them on to the latter in bulk. On one hand, the manufacturer is saved the trouble of executing small orders and on the other he is spared all his energies to concentrate on large-scale manufacture and thus secure the economies of mass production. Similarly the wholesaler sorts out orders into bulks according to the variety of goods. He then places them with manufacturers who are specialised in their production. Thus it helps the manufacturer to specialise in certain types of goods. Further, the wholesaler comes to know of the tastes of consumers for different goods. He then conveys them to the manufacturer who produces goods accordingly. The wholesaler performs an even more important function than these. As he generally stocks goods in sufficiently large quantities, the manufacturer is relieved of this work. Thus the manufacturer either works with a smaller capital or invests the capital which would have been otherwise locked up in stocks, in further production.

His Functions in relation to the Retailer — A retailer is generally a small trader with limited means. He, therefore, keeps a limited stock of goods but if trade is brisk he renews it quickly. Thus a ready supply of goods is required by him at a short notice which the wholesaler is in a position to do because of his large stocks. With this facility the retailer can run his business by the small capital which he possesses. Similarly the wholesaler provides him with many varieties of goods in a particular class which he is expected to keep for the choice of his customers. Further the wholesaler keeps him informed of the new types of goods that the manufacturer attempts to produce. Finally, the retailer is benefited in one more direction and that is that the wholesaler usually gives him credit for varying periods and extent according to the needs of his business and his standing.

Direct Sales by Manufacturers — In recent times a tendency has been noticed amongst manufacturers to eliminate the services of the wholesale trade and resort to direct selling to either retailers or consumers or both. This seems to be due to the increasing competition among manufacturers and their desires to retain the profit of the wholesalers for themselves. In direct selling the methods usually adopted are house to house canvassing through canvassers and agents, mail order business or establishment of chain stores controlled by departments.

Organisation of Wholesale Business — The business of a wholesale trading house is divided into a number of departments which can be grouped into two divisions: Administrative and Executive. The administrative side controls finance and accounts, correspondence filing and general administration. From among these functions the management of finance in particular is very important in as much as the success of the business will depend on it.

furniture, etc. They are therefore, situated in busy shopping centres

Large Scale Fixed Shops—The size of the retail trading establishments has tended towards expansion in recent years as is evidenced by the growth of departmental stores, multiple shops and the like. They derive many advantages from their large scale organisation. Firstly, as the capital at the disposal of these establishments is large, they benefit by the economies of bulk buying. Secondly, they are in a position to use modern means of sales expansion, e.g., advertising. Thirdly, because of their large means, they can give facilities to their customers in the form of home delivery of goods, booking orders on telephone, providing writing rooms, etc. These and other advantages general to large scale organisations are bringing large scale retail units to the fore front.

Departmental Store—A departmental store is a large scale retail establishment having in the same building and under one proprietorship a number of departments each one of which confines its activities to one kind of trade and forms a complete unit in itself e.g., the furniture department, grocery department, drapery department, etc. A departmental store, therefore, really consists of a number of shops under one roof.

Circumstances Helping Their Growth—The growth of the departmental stores in the last century was aided by a number of circumstances. It is known to all that the extension of an enterprise is limited by the size of the market. Thus there is generally a limit to the sale of goods of a particular class in a certain locality. If a trader, therefore, wants to expand his business, he will have to take on other classes of goods for selling. One of the reasons therefore, leading to the establishment of departmental stores was this. Similarly the originators

of the new idea had in mind a desire to cater to the needs of the better classes of customers by giving all sorts of facilities including the facility of making it possible for them to satisfy all their wants in one place. Although the above circumstances were responsible for the origin of the idea, its realisation would have become difficult without the presence of a large retail market. Fortunately in the last century this latter difficulty was removed by the growth of towns in size, the development of transport facilities, and the means of scientific advertising.

Its Organisation. The organisation of the departmental stores differs according to the type of business and its size. It is, however, generally organised as a limited company. The management and ultimate control are vested in a Board of Directors. The day to day management and supervision are entrusted to a Managing Director who then delegates the details of management to what are known as sectional Managers in charge of different divisions of the store.

The internal organization of the departmental store is divided into five sections—Merchandising, Staff Management, Maintenance and Service, Advertising, and Accounting and Finance. The merchandising section looks after buying and selling of goods in this section there are nearly 100 to 200 departments selling a variety of goods. Great skill is required in the management of these departments as the profits of the concern depend upon them. The staff section looks after the management of the employees of the store. Such a section is necessary because the departmental store engages a very large staff and to keep them fully occupied, to look after their welfare and conditions of work means a good deal of work. The maintenance and service section is entrusted with the care of the property of the store and the services to be

neither the possession of goods nor has a right to sell them in his own name. Ordinarily a broker cannot receive payment and give a valid discharge to the buyer of the goods. Further, a broker cannot sue the buyer in his own name nor can the buyer sue the broker personally. As regards the lien on goods sold through him, the broker ordinarily has no such lien. When a contract is completed the broker sends the terms of the contract in the form of a *sold note* to the seller and a *bought note* to the buyer.

Brokers also now a days are specialised according to the type of work they undertake. There are (a) *produce brokers* who specialise in selling goods like tea, coffee, wheat, cotton, etc., (b) *stock and share brokers* who specialise in the purchase and sale of government securities and shares of joint stock companies, (c) *insurance brokers* who effect insurance of cargo or ships on behalf of their owners and (d) *shipping brokers* who undertake to transact all matters connected with shipping on behalf of the principal.

Commission Agent — A commission Agent is a person who is employed to do a certain act in return for a commission. When he is employed to sell or purchase goods on behalf of the principal, he must do so on the best possible terms. There are a number of commission agents to be found working in India's foreign trade.

Underwriters — The underwriters are persons who, in consideration of a commission, agree with a company that if all or a particular quantity of shares are not purchased by the public, then the underwriters would purchase the unsold shares as agreed upon. These underwriters are appointed by company promoters to make sure the receipt of a definite amount of capital if the shares are under subscribed by the public.

Del Credere Agent — He is an agent employed to sell goods. In return for a higher commission he guarantees the payment of the price of the goods sold to a third party.

Forwarding Agent — He is a person who undertakes to collect and deliver goods on behalf of others. His services are found useful in the home as well as the foreign trade of a country. In the import trade, for example, when the goods arrive from a foreign country he takes delivery of the goods, examines the quality and quantity, and makes the necessary arrangements for their despatch to the place of destination. He performs similar services in the export of goods from a country. As an established forwarding agent he gets reduced rates from transport companies and therefore he is in a position to convey goods cheaper than the trader himself can hope to do.

Auctioneer — An auctioneer is an agent who is engaged to sell property publicly by calling on the public to bid for it. A sale by auction becomes complete upon the fall of the hammer or in any other customary manner if it is in vogue. An auctioneer receives a commission for his work. Further he has a lien on the goods for his commission.

Warehouse Keeper — A Warehouse keeper is a person who receives goods in a warehouse for being stored. As long as the goods are in his custody he is supposed to exercise reasonable care for their safety. In return for this work he receives a commission and has lien on the goods until it is paid.

The above description of the work of the mercantile agents shows that they fill in a very important place in modern commerce. Their expert knowledge makes the cost of their services very low. They help the traders to carry on their operations on a large scale and assure them of a continuity of business.

exporter before exporting goods should thoroughly investigate the following points about a foreign market :

- (1) the financial and political conditions prevailing in the country to which goods are going to be exported. If the conditions are not stable an exporter must exercise care in entering into business contracts
- (2) the purchasing power of the people and the probable extent of the market. Such information is necessary from the point of creating a permanent trade organisation
- (3) the conditions of sale;
- (4) the terms of payment and the banking facilities to make such payment,
- (5) the customs formalities,
- (6) legislation protecting the seller regarding trade marks and default in payment by the buyer;
- (7) the procedure of entering into trading relations and,
- (8) other information regarding the existing competition, the quality of goods required, the kind of packing likely to appeal to the people, e'c.

India's Foreign Trade and its Main Characteristics-

The total foreign trade of India in 1937-38, the last normal year, was worth Rs 352 crores; out of these imports were worth Rs. 173 crores and exports Rs. 179 crores. Thus India had a favourable balance of trade of Rs. 16 crores. On comparing these figures with the figures of trade say ten years back, it would be found that India's foreign trade has declined considerably in the last decade. Our average exports for the period 1924-5 to 1928-9 were worth Rs 354 crores. During the same period imports were worth Rs 251 crores. Making allowance for the

recent fall in prices, it is beyond dispute that in the last few years India's foreign trade has suffered a set-back.

As regards the characteristics of India's foreign trade, the most outstanding characteristic is that the bulk of her exports consists of food-stuffs and raw materials, while the bulk of her imports consists of manufactured goods. This clearly shows that as yet India is not sufficiently industrialised.

Another characteristic of India's foreign trade is that whereas the import trade consists of a variety of articles, the export trade mainly depends on the support of a few staples like raw cotton, jute, tea, oilseeds and food grains.

Further, a study of the direction of India's foreign trade reveals another noteworthy feature, namely, that in the foreign trade of India United Kingdom holds a predominant position. In 1937-38 United Kingdom imported from India goods worth Rs 64 crores and exported to India goods worth Rs 52 crores.

Again, India's foreign trade normally leaves a favourable balance of trade on the exchange of merchandise. With the fall in the foreign trade, however, this favourable balance of trade has been consistently falling.

Lastly, India's foreign trade is largely in the hands of foreigners.

Principal Articles of Imports and Exports—In the imports of India, cotton manufactures still hold a predominant position. In 1937-38 they were worth Rs. 15.55 crores and accounted for nearly 16 p c of India's imports. Till lately Lancashire was the chief supplier, but today Japan with her severe competition has not only deprived Lancashire of a part of the Indian market but has even become a serious menace to the Indian mill industry. In the total imports of cotton manufactures in 1937-38, the

are held by the manufacturer in his godowns on buyer's account as is sometimes done and if the latter is supposed to bear the expenses of removing them, the price quoted is known as *ex-warehouse price*.

F. A. S. (Free Alongside Ship)—This type of quotation means that the seller has to deliver goods alongside the ship or on the wharf at his own expense. If the goods are very heavy like locomotives the seller might give such a quotation.

F O B (Free on Board).—The seller has to bear the expenses of loading the goods. In such a quotation it is a common practice to mention the ports of loading, e.g., *F O B Bombay*.

C & F (Cost & Freight)—In this type of quotation the seller has to bear all charges upto the port of destination. Such a quotation includes the name of the port of delivery, e.g., *C. & F. Glasgow*.

C I. F (Cost, Insurance & Freight)—The price in this case includes all the expenses including insurance and carriage upto the port of destination. The usual way of quoting the price is to name the port of delivery upto which the carriage charges will be paid, e.g., *C. I. F. Kobe*.

Franco Rendu or Free—When such a quotation is given, it means that the seller will bear all the expenses upto the delivery of goods at the buyer's place.

Terms of Payment—An exporter while giving quotations for certain goods required by foreigners makes a mention of the method of payment for the price of the goods. Following are some of the common terms used in this connection—

C. W O (Cash with Order) and C O D (Cash on Delivery).—The first phrase is used when the seller wants that the price of goods should be paid in advance. The second phrase is used when the seller wants the buyer to pay for goods immediately before they are handed over to him. Both these terms are occasionally used in the case of first transactions with persons not sufficiently known or when small articles are sent through post.

Draft Terms * The usual way of settling accounts in connection with foreign transactions is by means of a *bill of exchange** sent through a bank. There are two methods of using this document to secure payment. An importer will get all the documents relating to goods on paying the amount of the bill. These terms are known as *D P terms, i.e. Documents on Payment*. Or he will get the relevant documents on accepting the bill, that is accepting to make payment of the amount of the bill at the end of a specified period. These terms are known as *D A terms i.e. Documents on Acceptance*.

Remittance Terms—A seller gives these terms only to buyers of long standing. In this case the buyer is allowed to settle the account by taking advantage of favourable exchange. If there is any balance unpaid, the buyer has to pay interest on it. British exporters sometimes give these terms to importers in India.

Indent—The next stage in negotiating a sale is reached when the foreign trader accepts the quotations and sends an order. The order received from a foreign country is known as an indent. It contains the importer's

*For a full explanation of a bill of exchange see Chapter IX.

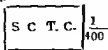
instructions regarding the goods to be exported, their quality, quantity, mode of packing, time of shipment, price, method of payment, etc.

The indents are of two types. A *closed indent* is one in which exact particulars of the goods required and the price at which they have to be shipped are stated. An *open indent* leaves the discretion about the details of the goods to the agent. The trader merely states in it what goods are wanted by him. A specimen indent is given on the next page.

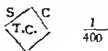
Dealing with the Order — When the indent has been received and duly acknowledged, the exporter makes arrangements for the purchase of goods mentioned in it. When the goods are finally purchased, before proceeding further, the exporter once again checks the goods to see if they are according to the instructions of the importer.

Packing and Marking In sending goods to foreign countries, packing requires to be given special attention. Packing instructions are generally given by the importer. The exporter must see that they are fully carried out. Even though no instructions are given exporter is supposed to exercise proper care to prevent the goods from being spoiled.

Further, the exporter has to see that proper marks and numbers are put on the packages. The use of a distinctive mark is necessary and useful in sorting out goods at the port of destination. Specimen marks are given below. A mark should consist of the initials of the importing firm, the port of destination, number of packages and measurement or weight.



Shanghai



Shanghai

Specimen Indent.

Indent No 40
Please quote this number
in correspondence and
invoices

5 VINCENT STREET,
SHANGHAI.
10th March, 1939

Messrs Vasanji Kalyanji & Co.
BALLARD ESTATE,
BOMBAY

Dear Sirs,

Please purchase and ship on our account the under mentioned goods

Delivery C I F Shanghai

Payment Draw on us 30 d/s., D A through the
Shanghai Banking Corporation, Ltd,
Shanghai

Shipment By P & Os Delivery before 15th June

Mark

S C T C

Shanghai

Yours faithfully,
J. Smith

Shanghai Cotton Trading Company, Ltd

J. Smith,
Manager

No or Quantity	Description	Price or quality	Remarks
400 Bales	Broach-cotton	No 2 F G, M G	

Forwarding Goods—Now when the goods are ready the exporter must make arrangements for forwarding them to the docks and from there for shipping them. If the exporter is staying in the port town, he might choose to make the necessary arrangements by himself. But as there are a number of formalities to be gone through before goods can be shipped he might engage as is usually done the services of *forwarding agents* who are specialised in this kind of work. In the case of exporters staying in up country towns the services of forwarding agents become necessary. If the goods are coming from an up country centre the forwarding agents take delivery of the goods at the railway station and pay town duties if any.

Customs Permit—There are certain goods which sometimes cannot be exported without the permission of the Government. Such a control is usually placed during times of wars. The exporter or the forwarding agent, therefore, has to secure the necessary permission from the collector of customs before arranging for the shipment of goods.

Shipping the Goods—After securing the customs permit when necessary the exporter or the forwarding agent will have to make arrangements for shipping the goods. The procedure in this matter is very elaborate and consists of the following steps:—

- (a) *Arrangement with a shipping company for freight*. This may be done by the exporter or his agent by negotiating directly with the company or through the help of a *freight broker*. When this is done the shipping company or its agents give a *shipping order* which is an authority for the shipment of goods by a particular vessel.

- (b) *The customs house formalities*—The next step is to satisfy the customs formalities. According to them an exporter is required to prepare a *shipping bill*. All the details of the goods are filled in it. It is prepared in triplicate. The customs authorities use this document for the purpose of calculating export duties, if any, and for the purpose of preparing statistical information relating to India's export trade. Two copies of the shipping bill are returned to the exporter or his agent.
- (c) *The formalities of the port authorities*—The exporter or his agent now has to arrange for sending goods to the docks from where they are generally exported. But before doing it he has to obtain the permission of the dock authorities by paying their dues. For this purpose another document called *dock chalan* has to be prepared in duplicate. One copy of it is returned to the exporter after the payment of dock dues. Now when the goods are delivered to the dock authorities, they arrange for their loading.
- (d) *Loading of the goods*—The dock authorities arrange for the loading of the goods on board the ship on her arrival. After checking the goods, the ship's authorities give a receipt to the dock officers. It is known as the *Mate's Receipt*. If the goods have been received in a good condition, no remarks are made by the shipping authorities on this document. It is then known as a *clean receipt*. But if goods are not in a good condition and a

remark to that effect has been made, it is called a *foul* receipt

- (e) *Preparing the Bill of Lading* — At this stage the exporter prepares another document called the *Bill of Lading*. It is prepared in triplicate and each copy requires a stamp of four annas. The bill of lading is a document wherein the steamship company gives its official receipt for the goods, and at the same time undertakes to carry them to the port of destination. The forms of the bill of lading are printed and can be had from the shipping company.

- f) *Payment of Freight* — The exporter or his agent now takes the Mate's Receipt from the dock authorities and lodges it with the bill of lading at the steamship company's office. The steamship company then prepares a *freight note* indicating the freight charges to be paid to the company. If the charges have to be paid by the exporter, at this stage he generally makes the payment. The company then returns the bill of lading to the exporter duly signed by an officer on behalf of the master of the vessel. The stamped copies now convey title to the goods.

Insurance — The details of shipment having been completed, the exporter or his agent will now arrange for the insurance of the goods. He might write to several insurance companies to quote a rate for the risk. On receiving these quotations, he will take out a policy from a company which he thinks has quoted him favourable terms. It is a common practice to insure goods about

10 per cent, over and above the invoiced value to cover an amount of expected profit and additional charges

(Marine insurance is dealt with fully in a later chapter)

Forwarding Agent's Letter of advice If the services of a forwarding agent were utilised by the exporter in this work of exporting goods then he, the forwarding agent, will send all the shipping documents which are in his possession with a covering letter stating the various charges he has paid and his commission

Invoicing The shipment of the goods having been completed the exporter now prepares an export invoice. It is a document which he sends to the importer and contains the description of goods, particulars of marks, numbers, weight or measure, their price and the charges upon them. It is generally prepared according to the terms mentioned in the quotations. Usually three copies of the export invoice are prepared. Two of them are sent to the importer and one is retained by the shipper himself. Export invoices are classified according to the kind of price charged : *e. Loco invoices*, *F O B invoices*, etc (specimen on next page)

If any error is discovered in the invoice later on it is usually rectified by means of a *debit or credit note*.

Certificate of Origin Indian goods are given preferential treatment with regard to import duties in certain parts of the British Empire, *e. g.*, United Kingdom, Canada, etc. A certificate of origin, therefore, is required to be sent with the invoice to enable the consignee to take advantage of the preferential duties. The certificate contains a declaration by the exporter or his agent to the effect that the goods have been produced in India. The form of the certificate of origin is sometimes printed on the back of the invoice ; or it can be had from the customs office at the time of shipping the goods. This certificate

Specimen Loco Invoice

Invoice of 10 cases White Twills shipped by the undersigned per S S Karanja from Bombay to Durban, by order and for account and risk of Messrs Tarachand & Co

*Insurance effected here
as per instructions*

Indent No 234



Durban
1/10

10 cases contain
ing White Twills
300 pieces, 30 in X
20 yds @ 5 s per
piece

CHARGES—

Packing 10 cases
@ 6 s each

Dock charges

Freight

Marine Insurance

Commission at 3%

E & O E

BOMBAY
10th March, 1939
Shah & Co

£	s	d	£	s	d
			75	0	0
3	0	0			
0	18	6			
2	12	0			
0	2	0	6	12	6
			81	12	6
			2	9	0
			84	1	6

must be prepared in the particular language required by the government of the country to which goods are being exported. It must also be signed by an authority appointed by that government i. e. generally by the consul. Various chambers of commerce also issue these certificates which are usually signed by the secretary of the chamber.

Consular Invoice—Governments appoint persons known as Consuls to reside in other countries in order to watch over the commercial interests of the nations they represent. Governments of certain countries require that when goods are imported into their country from outside, the importer should produce at the time of clearing the goods an invoice prepared in a particular form and signed by the Consul stationed in the country from where goods have been exported. It is known as *Consular Invoice*. It is particularly useful to the customs authorities there for the purpose of charging *ad valorem* duties, i. e., duties according to the value of goods. The value mentioned in the Consular Invoice is taken as authentic for the purpose of calculation.

The exporter is required to prepare three copies of the consular invoice. Two of them are retained by the consul and one is returned to the exporter. This copy is sent by him to the importer with other documents.

Securing Payment—After all the details of the shipment of goods have been completed, the exporter will proceed to arrange for the receipt of payment. The usual method used to secure payment is to draw a bill of exchange defined as an instrument in writing containing an unconditional order, signed by the maker directing a certain person to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument, when this bill of exchange is accompanied by the bill of lading, marine insurance policy invoice,

certificate of origin and the consular invoice, it is known as a *documentary bill of exchange*. This documentary bill of exchange is used by exporter to secure payment in three ways

- (a) The exporter hands over the documentary bill of exchange to his bank and asks it to collect the amount. The bank will arrange for this through one of its branches or agencies situated in the importer's country. If the bill is a *D A bill* the bank will present the bill for acceptance to the party concerned. On its being duly accepted the bank will release the documents to the party. Then on the day the bill matures it will be presented for payment. The amount thus received will be credited to the account of the exporter. If it is a *D P bill*, the documents will be released on receiving payment from the importer. In this case also the money received will be credited to the account of the exporter.
- (b) If the exporter, however, wants immediate payment he can discount the bill with his bank. In this case the exporter will be asked to give a *Letter of Hypothecation* authorising the bank to sell the goods in case the importer refuses payment. The Letter of Hypothecation provides that the drawer, will make good the difference between the discounted amount of the bill and the sale proceeds in case the bill is dishonoured and the bank is required to sell the goods at lower prices.
- (c) The exporter frequently asks the importer, before executing the order, to open credit in his favour with some bank. When such a

credit is opened, the bank concerned gives a *letter of credit* to the importer which he sends to the exporter. On the authority of this letter the exporter then draws a bill of exchange on this bank when the goods have been shipped and thus receives payment of his bill. In this procedure the exporter runs very little risk about payment.

Letter of Advice to the Importer — The export transaction being now completed the exporter advises the importer about the shipment of the goods and the bill of exchange. With this letter a copy of the invoice is also sent for the information of the importer.

Importing

The import trade of our country is the export trade of one or more foreign countries. The technique of exporting goods from these countries though may vary in certain minor details, is broadly the same as described in the *foregoing* pages. The following few pages will, therefore, be devoted to explaining the procedure of importing goods from the time they reach India. It has been already stated that India's imports mainly consist of manufactured goods. These goods may be imported directly by merchants or indirectly through agents. These agents may be the branch offices of, or sole import agents appointed by foreign manufacturers or Indian import houses. These import agencies are known as *indent houses*.

Indent Business — Whenever the Indian manufacturers or merchants require goods from foreign countries, they place an order with an indent house specifying the goods required or send an order directly to an agent abroad. The indent house, on receiving an order, places it with an exporter in a foreign country. The indentor

states in the order the particulars of the goods, the price at which they should be shipped and other conditions. The indentee is generally given the option to supply all or part of the goods ordered. The indenter also mentions in the indent the time within which the order must be accepted or rejected. If no time is mentioned, the usual period allowed is *four weeks*. The indenter generally undertakes all risks connected with the voyage and pays the insurance charges. On the arrival of the goods if any defect is noticed in them, the indenter can claim damages within two weeks of their arrival. If there is a dispute regarding the settlement of the claim, the matter is generally referred to arbitrators. Specimen indents are given on page 63.

Advice of Shipment — The exporter in the foreign country on receiving the indent arranges for the purchase of goods. In due course when they are shipped, he will prepare an invoice and send a copy of it with a letter of advice containing necessary information to the importer in this country. Simultaneously he will prepare a bill of exchange according to the instructions in the indent and despatch it with other shipping documents to his bank for collection. The agents of the bank in India on receiving the documents will present them to the importer for payment of the draft if it is a D P draft, or for accepting it, if it is a D A one. When the necessary steps have been taken by the importer, the shipping documents will be handed over to him by the bank.

Clearing Agent — After the documents have come into his possession the importer will have to make arrangements for taking delivery of the goods on their arrival. The importer, if he is staying in the port town, can do this work himself; but usually it is entrusted to persons or firms known as *clearing agents* who are specialised in

Specimen Indent*(From a European Indent House)***BOMBAY 10th March 1939****Indent No 1375****To Messrs. I SMITH & Co.,
LONDON**

5 Cases 6 pieces each =

30 pieces Tweeds 30/22 yds

Quality and pattern as pattern No 176

Patterns from A to F One piece of each
pattern per case Packing as usual**Price** — Market price in England plus shipping and
other charges

Draft at 60 d/s D/A

Shipment not later than 15th June next

Patterns as usual

S Brown & Co.,**Specimen Indent***(Of an Indian Firm)***BOMBAY, 10th March 1939****Indent No 487****To Messrs W THORNTON & Co
MANCHESTER****Dear Sirs,**

Please buy for us in England and ship on our account and risk, the following goods within under mentioned limits and draw on us for invoice value usual shipping and other charges and commission at $2\frac{1}{2}$ p c, by a Bill of Exchange at 60 d/s sight which we hereby bind ourselves to accept immediately on presentation and to pay at maturity or if not then to suffer all losses and expenses arising from such failure, and from a sale of goods to be effected by you on our account and risk

1000 pairs Grey Dhoties 48 in 2/10 yds, 60/70

Price 1/3Shipment from Liverpool on or before 15th
June next**Ticket** Deer

Yours faithfully
Harivallabhdas & Co.,

this kind of work. They charge a reasonable commission for their services. When a clearing agent has been engaged, the necessary shipping documents will be *endorsed* in his favour, i.e., he will be given authority to receive the goods.

The first step which the clearing agent now takes is to ascertain the time of arrival of the vessel by which the goods have been sent. He comes to know of it generally from the steamship company or from newspapers in which the arrival of vessels is notified for the information of consignees.

When the vessel arrives from abroad, the clearing agent first goes to the steamship company's office, pays the freight if it is payable by the consignee, and secures permission to take delivery of the goods. But in spite of this delivery order goods will not be delivered to him unless he has satisfied the requirements of the customs authorities.

Customs Procedure — The customs organisation of India is regulated according to the provisions of the Indian Sea Customs Act of 1878. This act lays down certain general restrictions regarding imports. They state that goods will not be allowed to be imported if (a) they have counterfeit trade marks, or (b) false trade descriptions have been given about them, or (c) they are dangerous. For this purpose the customs authorities are given power to examine goods. In order that the supervision may be properly carried out the following procedure is adopted. Goods will be delivered only after the customs formalities have been complied with.

Ship's Report — The customs authorities require every incoming ship to submit a *ship's report* containing the name of the ship, the port of registration, the name of the master and the details of the crew, passengers and cargo.

Bill of Entry — Every importer or his agent is required to prepare a *bill of entry* in triplicate giving full details of the goods. The particulars mentioned in the bill of entry must tally with the details in the ship's report. If they do not compare correctly, the goods will not be allowed to be landed.

Payment of Import Duties — The duties that have been placed by the Government of India on the goods imported into this country are either meant for the purpose of revenue or protection to Indian industries. These duties are of two kinds *ad valorem* (i.e., according to value) or *specific* (i.e., according to weight, measure, volume, etc.) For the purpose of charging duties, goods are classified as *free goods* or *dutiable goods*.

If the goods are on the free list, the importer or his agent is required to fill in a "free entry" form. When a copy of this form is signed by the customs officer, the importer or his agent will present it to the dock authorities for the delivery of goods.

If the goods, however, are dutiable the importer or his agent is required to prepare two copies of the form *Entry for Home Use ex-Ship* showing particulars regarding marks, number, net weight or quantity of the goods and the amount of the duty for which they are liable. When the duty is paid and if no other defects are found in the particulars, a copy of the above form duly signed by the customs officer will be returned to him. On presenting it to the dock authorities and paying their dues, they will release the goods.

Bill of Sight. — Where the importer or his agent has not received the necessary shipping documents and therefore is not in a position to prepare the Bill of Entry the customs authorities allow him to prepare a *Bill of Sight*, which gives him permission to examine the goods

in the dock in the presence of a customs officer. He then declares after the perusal that in the best of his knowledge the goods are the same as stated in the Bill of Sight and whether they are subject to duty or not. Thus in effect the Bill of Sight serves the purpose of the Bill of Entry.

Payment of Dock Dues—Once the customs formalities are over, the importer or his agent next pays the charges of the dock authorities. Until they are paid goods cannot be removed.

Bonded Warehouse—Durable goods when not required for immediate delivery and use by the importer are sent to a bonded warehouse until such duty is paid. These warehouses may be owned by the government or may be private. In the latter case the owner is required to give an undertaking in the form of a bond to the customs authorities that goods will not be delivered until the duty on them is paid.

The importer can remove all or a portion of the goods warehoused by paying the necessary duty, and securing a warrant for delivery from the customs authorities. From the importer's point of view this arrangement becomes convenient as he need not take delivery of the goods at all. When the goods are sold by him, he can endorse the warrant in favour of the buyer who will then arrange to take delivery of the goods.

Customs Drawback—Sometimes goods imported into India are not meant for home consumption, but are re-exported to other countries. If any duty has been paid on such goods, the customs authorities return it provided it is claimed by the importer. This is known as *customs drawback*.

Certificate of Survey—It sometimes happens that goods are received in a damaged condition. The importer or his agent, therefore, has to inform the agents of the

shipping company of the damage and get the goods surveyed by its officers. After examining the damaged goods the shipping officer issues a *certificate of survey*. This certificate is later on produced by the importer as evidence while claiming indemnity from the insurance company or compensation from the shipping company.

Despatch of Goods When all the customs formalities have been carried out and the delivery of the goods taken, the clearing agent or the indentor will make arrangement for their despatch to the place of the trader on whose behalf the goods were ordered.

✓ *Sub* CHAPTER V

ORGANISATION OF COMMERCIAL OFFICE

The changes that have taken place in the last century in the sphere of commerce and industry have been, as stated before, so revolutionising that the management of an enterprise today is not the same as it was in the past. The expanding boundaries of commerce and the increasing size of industrial units have raised the problem of administration to a higher plane. The success or failure of an enterprise today largely depends on its efficient and skilled administration. This administrative side of a modern business house is centralised in an office. It has been, therefore, aptly said that 'the office is to a business what the main spring is to a watch'.

Its Chief Functions — The object of a modern office is not merely to look after the clerical work, but to direct and co-ordinate successfully all activities of a business enterprise. This means that the duties entrusted to it are many and sometimes of a complex nature. They can be conveniently classified under the following main headings.

Correspondence — A modern office has to arrange for the purchase of raw materials for the factory or merchandise for the trading stocks. It has also to execute orders obtained by the sales department. A large number of these buying and selling transactions are effected through correspondence, which is generally classified as (a) inward and (b) outward correspondence.

The inward correspondence consists of letters of inquiries, orders, complaints, claims, etc. When they

are received somebody from the office to whom this work is entrusted scrutinises them, sorts them out according to departments and finally sends them on to authorities concerned. Similarly the outward mail consist of replies to letters, to travelling agents and branches, if any, circular letters written by the sales department, etc. Those persons who are in charge of the outward correspondence have to exercise care in dealing with outward letters as they largely speak for the efficient and skilled management of the office and consequently of the reputation of the business.

Correspondence also consists of letters written by one department to another. This inter departmental correspondence results from the intimate connection of one department with another and the necessity to minimise errors.

Finance and Accounting—Whether the office is concerned with a commercial undertaking or an industrial one, the management of finance is one of its important functions. Insufficiency of capital or current finance often leads to endless worry and trouble. If adequate finance is not available, the business may not be able to make improvements, increase production or give credit. The Manager or the Managing Director, therefore, is required to watch carefully the financial position of the concern. In this respect they have to be very particular about collecting payments and outstanding debts. Bad debts often ruin a business.

Keeping of proper accounts is an auxiliary to sound management of finance. Every office, therefore, must keep at least the important books of accounts like the cash book, purchase book for recording credit purchases, sales book for recording credit sales journal and ledger. Keeping all these and perhaps other books means a good

amount of work. Similarly, the Accounts Department must prepare every year a balance sheet and a tentative budget.

If the office is concerned with a manufacturing business, in addition to keeping the ordinary books of accounts it will have to organise a system *cost accounts*. The object of such a system is that to enable the manager to know as to what it costs to manufacture certain goods when orders are received. He must know what are the prime costs (i.e., labour, materials and direct expenses) and the *overcosts* (i.e., the expenses of the upkeep of building and machinery, rent, rates, office and management and selling and forwarding costs) in the manufacture of certain goods. From the point of calculating profit such a system is quite necessary.

Statistical Work—No business can hope to prosper without watching its progress from stage to stage. This requires tabulation of the results of its activities in the form of statistical tables. For example, modern business undertakes advertising propaganda on a very wide scale. Unless its results are watched instead of proving useful, the money that is spent may be wasted. Similarly nowadays because of competition, a business is required to cut down expenses to the minimum. For this purpose tables explaining expenditure on different heads have got to be submitted to the head of the management. Without such information *rationalisation* of business would become difficult.

Planning Work—A very important function of the modern office is to prepare in advance a policy and plan for conducting business for the coming year. The office must decide whether any new machinery is to be installed or whether new lines of production are to be undertaken or whether new markets are to be explored. This becomes

necessary inasmuch as the capital invested in a business and the number of men engaged in its work are considerably large. They have to be fully utilised if the business must earn. The work of planning production, sales tactics, expansion of marketing areas, etc., is so important that the amount of energy spent on it is bound to be richly rewarded. This skilled work forms one of the functions of the modern office.

Recording and Filing — It will not be wrong to say that the records of a business concern are its inexhaustible mine of information. The various documents and letters will show the pitfalls to be avoided in steering the business to success. The work of keeping these records also forms an important function of the office. The record room in an office is specially fitted with modern steel cabinets, proof against fire, in which these documents are arranged according to the scientific methods of filing.

Secretarial Work — If the office is attached to a registered company, carrying out the secretarial work in connection with the registration of members, conducting meetings and other statutory obligations also form an important part of the office work.

Some of the functions which have been mentioned above have been discussed more fully in later chapters.

Office Accommodation and lay out — The modern office building is distinctly different from the one used say a century back. In former times no attention was paid to its lay out. Any dark, ill ventilated and perhaps badly constructed building served the purpose so long as work was not obstructed. In fact simplicity of this kind was regarded as merit of management. Today with the high cost of management, employers pay more attention to efficiency of work. Without a properly constructed building allowing scientific arrangement of work, the

efficiency of employees is bound to suffer. Modern office buildings therefore, are specially constructed; they are spacious, well ventilated, fitted with fans and electric lights, lifts and other modern conveniences. When specially constructed for a particular concern, the lay-out of the office building is also generally planned on the lines suitable to the organisation of different departments. Thus it may be found necessary to place the buying department as far as possible near the stores departments. Consequently the lay-out will provide for accommodation in such a way that these two departments will be placed adjacent to each other. Similarly in planning the lay-out of any office building, care must be taken to provide room for the extension of the office if necessary.

Departments.—It has been already seen that the work which a modern office has to do is of a complex nature. Unless, therefore, work is properly classified and divided amongst the employees, chaos rather than order and system would pervade the office. Principles of scientific management are, therefore, applied to modern office management. The work is divided on the basis of functional specialisation into departments. Each department is entrusted with one or more functions which are allied to each other.

The following are the usual office departments—

- (a) Manager's Department
- (b) Correspondence Department.
- (c) Purchase Department.
- (d) Sales Department
- (e) Accounts Department.
- (f) Cash Department

Besides these departments, in a large business concern there will be other departments like the advertisement department, stores department, shipping department, etc.

the member of departments will depend on the nature of business

The arrangement of these departments will depend on the size of the office. If it is a small office, all the departments may be arranged in a big hall, if it is a large one, some of the departments may be given separate rooms. But whether large or small, the main principle underlying the office arrangement is that work should flow from one department to another : e. where one department has to communicate with another very often, they should be situated next to each other. There are other practical ideas which prove useful in office arrangement from the point of securing maximum efficiency. Briefly stated they are : the different departments should be divided by means of transparent glass partitions, where possible, so that supervision of the staff becomes easy, the office machinery should, as far as possible, be placed in one room so that the noise of the typewriters, cash registers, etc., will not disturb other clerks, and the departments of the principal executives, the General Manager, Purchase Manager, Sales Manager etc., who are likely to receive visitors should be placed near the entrance so that there will be no disturbance to the whole office.

The furniture used in the office and its arrangement also needs attention. As far as possible it should be neat, clean and attractive. It has its psychological effect on customers. The tables and desks should not be arranged face to face as it encourages talking and is not hygienically good. The *cubins* or tables of the supervisors and department managers should be located to the rear of the clerical staff. The employees, therefore, will sit with their backs to their manager and will not be tempted to look up if anybody comes to see him.

Personnel of Staff—The selection of the staff of the modern office requires great skill and ability to read character. Persons possessing different kinds of knowledge and capabilities have to be employed to fill in different posts right from the Manager to the despatching clerk. Among the applicants for these posts also there will be men of different characters—intelligence, ability, ambition, habits, etc. From such a mosaic combination of persons, the employers have to select to fill in different positions just the right type of persons. In practice, therefore while making selection, employers are guided by the following considerations. Firstly the candidate should possess a theoretical knowledge of the work he will be called upon to do coupled with, if possible, some practical experience. Secondly, the candidate must be a person with character, ability and some personality. Thirdly, he must have a pleasant disposition and courteous manners and be able to satisfy the would be employers in a personal interview. Though these are the general criteria, in making the following appointments of certain important officers the employers look to many other qualities of head and heart.

Manager—He must be a person capable of leadership, firmness of mind, quick decision, mastery of details and adaptability to changing conditions. An important executive like him must be capable of taking initiative and appreciating the work of his employees.

Secretary—Law requires the appointment of a secretary in the case of a joint stock limited company. He should possess knowledge of secretarial practice, mercantile and company law. This knowledge is necessary as he is entrusted with the work of fulfilling all the statutory requirements of the Company's Act.

Accountant or Head Book keeper—In addition to keeping books of accounts he is required to prepare financial returns such as the annual balance sheet, trading account and profit and loss account. He should, therefore, possess not only a sound theoretical knowledge but also practical experience in a similar concern.

Chief Cashier—As he is required to handle large sums of money, accept and pay bills of exchange and sometimes give loans, he must be a man of integrity and sound character. Employers usually take from him security or *fidelity bond*.

Other Staff Matters

Number of Staff—The number of employees to be employed in an office will depend on the nature and extent of work. In small offices one person can and may be required to do more than one duties. In a large office the same work may be given to more than one clerk. But generally the policy should be such that the staff is neither too large nor too small for the work. If the staff is too large, some persons will have no work. They will disturb work and engage others in talk. If on the contrary, it is too small, some members will be overworked and will be dissatisfied. Both the extremes are not conducive to efficiency and should be avoided as far as possible.

Service Agreements—Whenever a person is employed, it is desirable to enter with him into a written agreement. The terms of service should be stated in it and both the parties should attest their signatures to it.

Card Index—Small as well as big offices find it convenient to maintain a card index of the employees. For each employee there is a card. It bears the name of the employee, his address, age, qualifications, salary, etc.

The utility of these machines is beyond dispute. Firstly, they are useful from the point of saving time and energy. What amount of *time and energy* were required formerly when a few copies of a letter had to be made. Today hundred copies of a letter can be made in less than half an hour with the use of a duplicator. Secondly, in certain cases work has been rendered more exact and the probability of error eliminated. The use of adding machines, for example, has made calculations exact. Thirdly, much of the repetitive work has been made less irksome, tiresome and monotonous. Lastly, the efficiency of the modern office which is so essential for the smooth working of the present economic system would have suffered but for these machine devices.

Some of the important machines nowadays used in modern offices are discussed briefly in the following pages. For the convenience of study they are classified according to their usefulness for particular work into the following groups :—

- (a) Correspondence
- (b) Computation
- (c) Intercommunication
- (d) Miscellaneous
- (a) Correspondence

Typewriters.—The typewriter was perhaps the first device introduced into offices about fifty years back. Today it has become so familiar that one will rarely find an office of some importance without a typewriter. There are various kinds of typewriters—portable, table model, noiseless, motorized, etc. The mechanism of any one of these typewriters is not very complicated. A typist generally knows it and ordinary repairs can be done by him.

In order to make the work of the typist very efficient different typing aids are provided for him. They have been prepared after studying the movements of typist. Some of these aids in everyday use are the copy holder, automatic envelope feeder and the carbon paper conserver.

The advantages of the typewriter are many. Firstly, it increases the efficiency of correspondence. Secondly, it supplies a style of writing which is pleasing to the eye. And finally, with a good typewriter as many as twelve copies of a letter can be taken out.

Addressograph—The addressograph is a machine useful for addressing envelopes, post cards and labels. It saves a considerable time when communications have to be sent to the same persons or business houses regularly or frequently.

The working of this machine is very simple. First the addresses are embossed on zinc plates. They are then arranged in an alphabetical order in cabinets specially provided for them. When an address is to be written, the necessary plate is removed and adjusted in the machine. After pressing the lever the address is produced on the letter.

The metal plates may be purchased from the manufacturers of the machine or they can be prepared in the office by the help of the *Graphotype Machine*.

Dictating Machine (Dictaphone).—This machine is meant for the use of higher officers whose time is very valuable. It is used for dictating replies to letters, giving instructions, etc.

The principle underlying the working of this machine is the same as that of the gramophone.

There is mouth piece attached to this machine. When something is dictated into it, a revolving wax cylinder records it. The typist then takes it to a transcribing machine on which it is adjusted. Now by means of an earphone he hears the dictation over again. The advantages of this machine are many. Firstly, it is always ready by the side of the executive and no time is wasted in the coming and going of the stenographer. Secondly, the chance of error is reduced. And finally the speed of this machine is considerable. It can record about 300 words per minute which an average stenographer will find it difficult

Duplicating Machines — When a large number of copies of a letter, statement report or bulletin are required the ordinary process of copying by means of a typewriter would not be useful. For this work a duplicating machine is convenient. By using it even 500 copies can be taken out in fifteen minutes time.

There are different type of duplicators stencil, gelatine, offset, etc. The stencil duplicator is very commonly used. A stencil is a waxed or composition paper on which the matter is typed by a typewriter without the ribbon. It is then fitted on to the machine. By feeding the machine with paper and turning on the handle any number of copies can be had. The *Roneo* or *Gestetner* duplicators available in the market work on this principle.

Mechanical Envelope Opener — This machine is particularly useful in large offices where the mail contains hundreds of letters. The work of opening them without damaging the contents would take

a pretty long time. In this machine letters are fed either automatically or by hand. Revolving knife edges cut off from the envelopes fine edges. A handoperated machine can open 200 letters per minute.

Envelope Sealing Machine—This machine separates envelopes, moistens the gum on the flaps, seals them tightly and piles them together into stocks ready for being sent.

Chronostamp—By means of this machine, the time of delivery or despatch of letters, documents, orders etc is recorded on them. Direction of delay whenever it occurs, becomes easy.

(b) Computation

Adding Machines—An adding machine or otherwise known as the *listing machine* has become almost indispensable to modern offices, particularly banks and insurance companies where the work of adding is large. The work of adding is monotonous and tiresome. The use of such a machine relieves the clerk of the sense of tedium.

The machine looks like a typewriter and is operated by means of similar keys. As the keys are pressed figures are typed and by an internal mechanism the sums are added. When the lever is turned, the final total is printed. The machine is speedy, accurate and neat. The machines of this type which are commonly used and are available in the market are the *Burroughs* and the *Sundstrand*.

Comptometer—This machine is designed to do every kind of arithmetic work—addition subtraction multiplication and division. It is, therefore, indispensable to a commercial office.

This machine is also operated by means of a keyboard. It can be fitted with different keyboards for calculations either in sterling or rupee currencies.

Cash Register — This machine is very useful to large scale retail dealers for recording daily cash receipts. The special features of this machine are that it gives a receipt for each item of money taken, keeps a record of all receipts on a roll of paper inside and at the end of a day gives the grand total of day's cash receipts. Thus it becomes easy to compare the cash in the till box with the total receipts. At the same time, the proprietor can know the number of customers served on a particular day.

There are nearly sixty different kinds of cash registers available. But each one of them is built specially to suit the requirements of a particular business.

Besides these machines described above, there are many other machines available for the work of calculation. They are for example, billing machines, tabulating machines and book keeping machines. They are to be generally found in large scale business establishments.

(c) Intercommunication

In a large business concern where there are a number of managers and sub managers, it would be inconvenient and perhaps wasteful if for consultations they have to go from one to the other every now and then. Automatic means of communication, therefore become quite necessary. The intercommunication system therefore is installed to facilitate (a) verbal communication between office executives and between departments, (b) transport

of merchandise, letters, documents, etc., within the office building

Private Telephone System — A private telephone system is in use in nearly all important offices where intercommunication system is necessary. Though this is true, no one common system is in operation in all the offices. The following are some of the different types in use

Manual Switch board System — This is a system in which the ordinary telephone is linked to a private exchange. A telephone operator connects the various points as and when required.

Automatic Switch-board System — This may be a private system operated automatically without the help of an operator. By means of a dial on which there are numbers from 1 to 9 and 0, any point can be connected easily. This system is not very expensive and is becoming very popular.

Executive System. — This system is known as the executive system as it radiates from the office of the chief executive to other points. The manager can get into touch with any other officer quickly with the help of this system. One of the best known systems is the Dictograph.

Paging System — This system is used in conjunction with the internal telephone system. A telephone will be received if there is somebody to attend to it. To overcome this drawback a call can be sent by means of a machine established near the keyboard so that the call will be heard by anybody who is in the vicinity.

Pneumatic Tubes or Mechanical Conveyor System. — This system is used for the purpose of carrying letters, money, merchandise, etc., from one

department to another. The article to be carried is placed in a cylinder which is propelled on by means of air pressure along a pneumatic tube. Similarly an overhead wireline carrier system is installed in some offices for the same purpose. In this system the conveyor is carried by means of the force of gravity.

Telegraphic Typewriter — The telegraphic typewriter is a modern device for conveying messages from one place to another the distance between which may be a furlong or even hundreds of miles. There are sending and receiving devices. Each resembles somewhat the ordinary typewriter. They are connected by means of electrical wires. The message typed on the sending device is reproduced on the receiving device. The advantages of this mechanism are that the messages transmitted are received accurately and even in the absence of an attendant at the receiving station.

(d) Miscellaneous

Time Recording Device — The employees of an office ought to be regular. Regularity is generally enforced by asking them to sign on a book and to mention the time of arrival. This, however, usually leads to abuse and even fraud. Mechanical devices have been therefore found suitable for this purpose. One of such devices is the International Autograph Recorder.

Job Recording Devices — Modern scientific system of office management requires that a particular job should be done in so much time. If more time is taken, it means that the employer is suffering a loss. To find this minimum time necessary for

METHODS & MACHINERY OF BUSINESS

a particular job, time recorders are used. They help to improve the efficiency of office work.

Coin Changing Devices—These machines are very useful in banks and commercial offices where often currency notes have to be changed into coins of smaller values. By pressing particular keys exact change can be given without error.

Coin Handling Devices—These machines also are useful to banks and large commercial concerns. They do the work of separating coins of different values, counting them and packing them in rolls.

Cheque Protector—Cases of the figures on cheques being altered fraudulently are not uncommon. To protect himself against such frauds, the drawer nowadays uses a cheque protector for writing amounts. It perforates the amount in the form of small holes which cannot be altered without being detected.

Recording Door Locks—In this device the time at which door was opened is recorded. It is useful for safe deposit vaults and banks where valuables and money worth lakhs of rupees are kept for safe custody.

Besides these, there are many other devices which are commonly used but which cannot be described here for want of space. All of them, though costly, add to the efficiency of office routine, and in the long run prove profitable.

In India the use of these mechanical devices has been spreading very slowly. In our banks, insurance companies and other commercial offices, many of the machines described above and usually used in western countries are conspicuous by their absence. The only explanation for this state of things is that in India labour

is cheap and plentiful, and, therefore, the organisers give no thought to improving office efficiency by introducing labour saving devices. Though introduction of these devices may mean loss of job to a few persons, in the long run the expansion of business resulting from better efficiency may create more employment. Improvement in this respect is therefore long overdue in Indian commercial offices and it is high time that the managers should give their attention to it.

Administrative Standards - In concluding this discussion of office organisation a word may be said about the administrative standards. In modern business the capital required by a company is large and is usually contributed by hundreds of persons. Thus the ownership is diffused. Consequently the day-to-day management is left in the hands of a manager. He will have to judge from time to time whether his policies are working successfully or not. To measure this success administrative standards become necessary.

Though necessary, it is difficult to say at once what should be the criterion of measuring the success of managerial policies. Whether it should be the profits or the harmonious working of the office and of the productive plant? The owners, of course, will judge it from the profits earned. But as these profits are not dependent on successful management only but also on outside influences, care must be taken to make allowance for the latter factor.

But if the conditions are adverse and a business is not in a position to earn any profits, the angle of applying the criterion will have to be changed. Here the management will have to be judged from its efforts to standardise losses. It should be seen whether the working expenses were reduced or not and an attempt made to bring down losses to the minimum.

When such administrative standards are expected of an organisation as a whole, they cannot be achieved unless the working of its individual units is also measured by the same standards. Men, machines and materials must be studied in their working and use to find out what they cost the office. Without this being done, improvement in the office results to achieve high administrative standards by employing better type of staff and purchasing better equipment would become difficult. Job analysis, therefore, is necessary as an aid to achieving better results. In India however, no thought is given to this aspect of improving the work of offices with the result that inefficiency has become characteristic of business management. It may be hoped for the future that our businessmen will realise that efficiency and success go together.

common practice in large offices is to hire a post office box. These boxes are rented to the public by the postal authorities at an annual charge of Rs 15 per box. This method is convenient because the mail can be received at the appointed clearing time and the office staff need not be kept waiting for the postman to come.

Opening the Mail — Once the mail is received it has to be opened. In small business offices this may be done by the manager himself with the help of a clerk. But obviously in large concerns this would be difficult. The work, therefore, is generally left to a trusted official and one or more clerks. They must be men of integrity because the mail will contain not only money and negotiable documents requiring very great care but complaint of the public against the staff. For opening letters a letter opener may be used.

Stamping Date and Time — As soon as the mail is opened the next step is to stamp on all letters and documents the date and time of receipt. This precaution is necessary for prompt replies. It is also a safeguard against postal delays. A rubber stamp of the following type may be used.

<i>Ahmedabad Bank Ltd</i>
<i>No</i>
<i>Recvd</i>
<i>Ackd</i>
<i>Ansd</i>

Listing — When the letters have been stamped, they are sorted out according to the departments concerned and placed in trays. If there are any letters addressed to

individuals they are placed unopened on the tables of the addresses. The letters are then entered into a Letters Received Book commonly ruled in the following manner

Letters Received Book

Date	Consecutive No	Name and Address	Department	Signed for	
				Number	By
1939 Mar 10	1235	Patel & Co Bombay	Machinery		
,	36	Ghosh & Co Calcutta		2	A L
	37	Shah & Co Cawnpore	Shipping	1	C D

A record of the inward mail as shown above will be useful for tracing letters if they are lost or mislaid. It also shows the contents of the daily mail for the reference of the General Manager.

Method of Disposing Letters—After the letters have been entered they are distributed according to the departments concerned. The heads of the departments will answer them personally or send them on to the subordinates for disposal according to their importance. This latter procedure is adopted when communications are such that a reply in the usual routine way can be given by the assistants. At the end of the day if there are any letters unanswered they should be kept in a tray in such a way that they will receive the first attention next day.

In dealing with inward letters there are some which merely require to be acknowledged while there are others

which might take some time before they are finally replied and hence require acknowledgment. The forms usually used for these acknowledgments are given below. The first is a formal acknowledgment. The second is one where a definite reply is going to follow—

The Indian Steam Navigation Company, Ltd

*Ballard Estate,
Bombay*

19

Dear Sir/Madam

I have to acknowledge the receipt of your letter/post card of the instant re

for which I thank you

*Yours faithfully,
Manager*

The Indian Steam Navigation Company, Ltd

*Ballard Estate,
Bombay*

19

Dear Sir/Madam

I acknowledge the receipt of your letter/postcard of the instant, re

which will receive attention

*Yours faithfully,
Manager*

Incomplete Enclosures — Enclosures are those papers, documents, cheques, bills of exchange (*hundies*), etc. which are sent with a covering letter. The number of these enclosures is usually marked at the foot of a letter in the left hand corner. On opening the mail if it is found that any enclosure is missing, a note should be made on the letter and an advice to that effect be sent to the correspondent.

Outward Correspondence — The handling of outward mail requires perhaps more but not less care than the inward mail. The letters that go out are said to be the silent ambassadors of business. Hence they require to be treated with such care that the standards of dignity of the commercial office are upheld at all times. It is therefore, often made a rule that only the head of the department may sign letters so that he will get an opportunity of scrutinizing the letters written by his juniors. This precaution is good from the point of safeguarding the reputation of the office and avoiding occasions of offending customers unconsciously.

Stereotyped Replies — In modern commercial offices many letters are received every day which can be answered by a stereotyped reply. Such replies are drafted, numbered and kept ready. Whenever a stereotyped reply is to be sent, the number is written on the letter by the officer and passed on to the typist who copies out the necessary reply. This step is necessary as it saves a lot of time of the office staff.

Copying Letters — It is necessary to keep a copy of every letter that is sent out for future reference in case it is required. It might happen that when a contract was entered into certain terms were agreed upon between the proposer and the acceptor, but later on a dispute might occur about their exact nature. In

such an eventuality a copy of the contract will be sound and indisputable evidence if the matter goes to the court of law

The out going letter may be copied in any one of the following three ways -

- (a) *The Copying Press* - This is one of the oldest method of copying now going out of use. Letters are copied in a letter book containing 250,500 or 1000 tissue or buff porous leaves numbered consecutively and provided with an alphabetical index at the beginning of the book. The letter to be copied is typed with a copying ink ribbon. The surface of one of the leaves of the letter book is made damp. The letter to be copied is then placed face downwards on the back of the leaf. The book is then pressed in a copying press. An exact impression of the letter is left on the leaf.
- (b) *Carbon Copying* - This is a modern method less expensive and tedious. The typist places a carbon paper in between two or more blank sheets of paper according to the number of copies required and types the letter. A clean impression is left on all the papers. A carbon copy can be had even when a letter is written by hand. The procedure is the same.
- (c) *Rotary Copying* - A rotary copier is the most modern method of copying letters. Unlike the copying press the procedure is very simple. There is a roll of paper attached to this machine. The letter to be copied is fixed in a frame and the paper and the letter

are made to pass through rollers. Any number of copies can be had by this process. The roll is then removed and cut into sheets by means of a knife attached to the machine. It can cut as many as seventy sheets at a time.

Despatching of letters — After the letters are properly copied the next step is to prepare them for being despatched. Each department should send its letters to the Despatching Clerk or the Despatching Department in time for the outgoing mail. In despatching letters the following procedure will be useful in avoiding irregularities.

Addressing Envelopes — Care must be taken to see that letters are properly addressed. Wrong addresses very often bring a business into trouble because if letters are returned for want of sufficient or correct address the result may be that a business will have to suffer irreparable losses. To avoid this probability it is a practice in many offices to maintain an Address Book in which the addresses of regular customers are written and arranged alphabetically. When such a book is maintained, utmost care must be taken to keep it up to date by entering from time to time the changes in customers' addresses.

In writing addresses also care must be taken to observe the rules of correspondence lest the addressee feel offended. A few specimens of addressing business letters are given on page 94.

Enclosures — When enclosures have to be sent with a letter, care must be taken to see that proper and exact number of enclosures are sent. The number of enclosures are generally indicated by the typist, as stated before, at the foot of the letter or as in some offices, it may be

FORMS OF ADDRESSES

(1) *A tradesman—***Mr S L Shah***Cloth Merchant**10 Gandhi Road,**Ahmedabad*(2) *A firm—***Messrs Pandit Shah & Co.,***Machinery Suppliers**Station Road**Ahmedabad***The Modern Furniture Co***Gandhi Road**Ahmedabad*

(It should be noted that when the name of a firm starts with a personal name the word *Messrs* is written before the name of the firm but if the name starts with an impersonal name the word should not be affixed to it)

(3) *A limited company—***Messrs Tata Sons, Ltd.,***Tamarind Lane,**Bombay 1***The Textile Mill Ltd.,***Or**Parel Road**Bombay 12*(4) *A private gentleman—***H S Desai Esq.,***Ashram Road**Ellis Bridge Area,**Ahmedabad*(5) *A professional man—***Dr D N Marfatia M S***Gandhi Road**Ahmedabad***D N Marfatia, Esq., M S***Gandhi Road,**Ahmedabad*

shown by means of a red slip pasted on the back of the letter

Use of Window Envelopes—In order to save the time required for writing addresses many offices keep envelopes with printed addresses of regular correspondents. Another method utilised for this purpose is to use window envelopes which have a transparent slip on the upside. A letter is folded and placed in such a manner that the inside address on the letter paper can be seen through this transparent slip. This method is economical and convenient.

Postage—Though it looks to be a minor matter fixing stamps of a sufficient value also requires careful attention. The despatching clerks should know the postal rates for ordinary letters, registration parcels, etc. If there be any doubt about the exact postage required a letter should be weighed. If this is neglected the letter may be returned or the addressee will have to pay double the difference.

Record of Outgoing Letters—When letters, postal packets, etc., have been prepared in the above manner, a record of outgoing letters should be kept in a Postage Book. Though the rulings are different in different offices, a book ruled in the manner shown on page 57 will be found useful.

When letters have to be delivered locally, the general practice is to send them by hand through a peon. This not only saves time and money but is more convenient when prompt replies are required. The word 'Hand' should be written on the envelopes for guidance. If an immediate answer is required the words 'Wait answer' also should be written. The record of letters delivered by hand is kept in a Peon Book.

Parcel Book.

Date	Name and Address	Nature of the articles	Receiver's Signature
1939 Mar 10	Manager, Central Bank of India Gandhi Road	Letter	A B

If any articles are sent by parcel post, usually entries are made in the postage book and receipts acknowledging the number of articles are obtained from the postal authorities. When however the number of parcels is large a special Parcel Post Book is maintained. The postal clerk signs this book in acknowledgment of the parcels.

Parcel Post Book

Date	Name and Address	Postage	Signature and Stamp
		Rs a p	
1939 Mar 10	Popular Book Depot Lamington Road Bombay 7	1 2 6	○ Stamp A B

Filing

Filing may be defined as the method of arranging business papers, documents and correspondence in a systematic manner. With the growth of business and the increase in the facilities of communication there has been an enormous increase in the quantity of business papers which a modern office is called upon to handle. Keeping a record of all these documents in an easily accessible form has, therefore, become a problem. The modern scientific

Postage Book

Stamps	Date	Name	Address	Time of Posting	Posted by	Postage	
						Rs	a p
	1939						
	Mar 10	Stamps in hand		6 P M	A B	0	2 6
	"	Bank of India	Fort, Bombay				
	"	Chetty & Co	Rampart Road Madras		A B	0	1 6

systems and equipment of filing have attempted to solve it successfully to the relief of the present day commercial offices

Essentials of a Good Filing System (a) *Simplicity*—The first characteristic of a good filing system is that it should be simple. The principles underlying a system should be capable of being easily understood by an average clerk. It must therefore, be free from complications and over elaborations which will not be intelligible to him without great effort. A complicated system will also demand more time for working it successfully.

(b) *Suitability*—A filing system to be really useful must be suitable to the nature of business papers to be filed. A system which is good for one office may not be so for the other. Much will depend, however, on the actual working of a system.

(c) *Adaptability*—It has been found many times that a business started to deal in one line later on takes up other lines. Consequently the nature of business papers to be filed might also undergo a change. This will mean that if the old system is continued, certain adjustments will have to be made in it. Hence adaptability of a system to changes in the nature of a business is also a characteristic of a good filing system.

(d) *Capable of Promoting Co-ordination and Control*—The various departments of a modern business concern are partly dependent on and partly independent of, each other. Their transactions, though of a varied nature require to be controlled properly. A good filing system promotes this co-ordination and control by the arrangement of documents in such a way that the chief executives can get a correct idea of their working by reference to relevant files.

(e) *Easy Accessibility*—A system is good or bad according to the ease with which the various papers and documents are accessible without being required to spend much time. Any system which lacks this feature will be cumbersome and of a doubtful utility to a business.

Though the above features are necessary in a good filing system, in the final analysis the success or failure of a system largely depends on the persons who work it. If they are regular and immethodical even a good system will not be found conducive to efficiency. The head of the filing department, therefore, should be not only an efficient man himself but should be capable of extracting efficient work from his staff.

Old Systems of Filing—The Spike File—The oldest method of filing is perhaps the spike file. An iron rod or wire was fixed to a piece of wood. Whenever letters had to be filed they were forced through the sharp edge of the spike. Thus it was a very crude method of filing letters.

Docketing—This method of filing is certainly more convenient and systematic than the previous one. Letters, invoices or other papers are folded lengthwise and on their outside are written (a) the name of the correspondent, (b) the address (sometimes omitted), (c) the date and (d) a brief description of the contents. This is known as a docket.

TRIVEDI & Co.,

Bombay 15 4 1939

Order No N 230

PATEL & Co.,

Nadiad 17 4-1939

re Damaged Goods.

When letters or invoices are properly docketed, they are placed in the pigeon holes of a box specially constructed for this purpose. There are twenty four pigeon holes which are marked alphabetically. At the end of a month or two, the pigeon holes are cleared, letters are sorted

out alphabetically, tied together in thick cardboard papers with string or tape and placed in boxes meant for the purpose of records. On the outside of these boxes their contents are indicated by means of bold letters

LETTERS

A to J
Jan to Mar
1939

INVOICES

Jan to Mar
1939

This method of filing correspondence though antiquated and gradually being discarded, is still used in some small commercial offices. But because of the utility of modern filing systems described in the following pages, this system is bound to be given up some day.

The Pocket File and the Box File — The Pocket file is comparatively a recent device for filing letters. This type of file contains pockets marked alphabetically. Letters are placed in these pockets without being folded. It has a fastener which closes the file and protects documents from being spoiled by dust.

An ordinary box file has a hinged cover and is fitted with a spring clip which holds the paper down. These files may be used in sets and arranged alphabetically. These boxes may be kept on a shelf or a book rack. When arranged alphabetically this method closely resembles the modern flat filing system.

These old systems of filing, though useful at one time, are not suitable and convenient to modern conditions. The enormous increase in business correspondence and other papers require more elaborate and scientific filing methods and equipment.

Modern Filing Systems — There are two systems of filing which are in use in modern offices — (a) the flat filing, and (b) the vertical filing. The working of these two systems and their merits are discussed below.

Flat or Horizontal System.—In this system of filing letters are placed in a flat or horizontal manner, one on top of the other upto a thickness of about three inches. The inward letter and a copy of the reply are filed together so that a reference to them at any time becomes easy. Flat files of different makes are available in the market, but those in common use are the *Pilot File* and the *Shannon File*.

The *Pilot File* consists of thick cardboard covers which open like a book. There are two small steel tubes and a lever attached to the lower cardboard. The letters that have to be filed or punched with two circular holes. They are then passed through the tubes and secured by the lever. Letters are filed alphabetically in order of date so that the most recent letter is on the top. The advantage of this kind of file is that letters can be removed or replaced without disturbing the whole correspondence. But care must be taken to see that whenever a letter is removed from the file it is replaced again. When the file is full, all the letters are removed, tied into convenient bundles and placed properly in the record room. The number of files used in an office will vary according to the nature and extent of correspondence.

The *Shannon File* consists of a cabinet with a number of compartments. Each compartment contains a file in the form of a drawer which can be removed. As in the case of the pilot file, letters are punched and placed through two projecting spikes. A double arched spring is then fixed on these spikes by means of a lever. To the outside of the drawer is attached a metallic frame in which a card can be placed to indicate its contents. When a file is full its contents are removed to a transfer or binding case in which the papers are held together by means of a fastening.

The advantages of this system are that (a) as the letters lie on their backs, they remain intact without being spoiled at the edges (b) as the letters are secured by means of spikes, there is no possibility of their being thrown into disorder (c) letters can be referred to without their being removed from the file so that there is no chance of letters being displaced, (d) even if the drawer falls down accidentally, letters will not be mixed together

Vertical Filing System—The vertical filing system as the name suggests is one in which letters are held in an upright position as distinguished from the flat or horizontal system. In this scheme there is a steel cabinet consisting of drawers generally 20 inches long. These drawers run easily on roller bearings and can be pulled out to their full extent. Letters are filed in folders made of manilla paper. They have no fastening arrangement and therefore, letters can be taken out easily. On the projecting part of the folder is written the name or the number of the correspondent. A separate folder is generally used for a regular correspondent or for an important subject. When these folders are placed in a drawer, in order to trace a particular folder without loss of time guide cards are used. These guide cards are made of thick paper and are marked numerically or alphabetically. These guide cards are held in their place by a rod running from the front of the back of the drawer. When the folder becomes full, its contents are removed to a transfer case made of wood or cardboard.

The vertical filing system has become very popular and is extensively used in modern offices. It owes its popularity to the fact that it is useful for filing any variety of documents and in any number. The equipment is capable of being extended to accommodate hundreds of folders. Besides this advantage, there is no trouble in taking out or replacing documents and as there are no

spikes or levers there is no chance of letters being torn while filing

Methods of Classifying Files — More important than any particular system is the method of classifying files. The ease and convenience of a system will largely depend on a proper and systematic arrangement of files. The following are the methods commonly used —

Alphabetical — The alphabetical method of arranging files is one where the letters of each correspondent are placed in a folder with the name of the correspondent written on it. Folders are then arranged behind guides in the alphabetical order. The folders marked with one letter of the alphabets might be placed in one drawer if the correspondence is large. If not, then a drawer may be allocated to two or more letters. If the number of correspondents with a particular initial letter is too large, for quick reference the alphabetical system might be used with vowel arrangement; *e*, with A, E, I, O, U, and Y which is treated as an additional vowel. The folders then will be arranged in the following order if say B is the initial letter — Ba, Be, Bi, Bo, Bu, By, etc.

Numerical — The folder of each correspondent is given a number. The number starts from 1 upwards. Folders are then placed in the cabinets in their serial order. In order to find out a particular number easily, the guides are marked with numbers at regular intervals, *e* *g*, 20, 40, 60, etc. The numerical method cannot be used without an alphabetical card index which will be described at the end of this chapter. With the help of this index the number of the folder of a certain correspondent can be easily found. Thus this numerical method of classification is particularly useful in offices where the number of correspondents is very large.

Geographical—The geographical classification of folders becomes necessary where a business has connections not only in many towns but in many countries. A separate cabinet might be used for each country. Within a drawer of the cabinet, the guides with the names of different towns may be arranged in the alphabetical order. Behind these guides the folders of the correspondents will be arranged alphabetically or numerically.

Subject—The subject classification is used in filing correspondence when the subject of the letter is more important than the name of the correspondent. The guides are marked with subjects and arranged alphabetically. Behind these guides the folders may be arranged according to the subdivisions of the subject or according to the names of the correspondents.

Although these are the main methods of classifying folders, two or more of these methods might be combined and used for convenience if the nature of papers to be filed makes it necessary.

Some Suggestions about the Routine of the Filing Department—The first question that requires to be studied in this connection is whether it is desirable to centralise filing or not. The answer to this question will depend on the individual requirements of a business. The general consensus of opinion amongst business men, however, is in favour of centralisation. Filing may be centralised in two ways

- (a) Control and authority regarding filing methods and material to be filed are centralised, but the files are retained in each department and the filing work is done there.
- (b) Control and authority as well as the location of files are centralised in one place. Thus all papers to be filed are sent to one department.

In this case the room selected for the filing department is such that all departments can have an access to it without loss of time

Another matter that requires attention in the filing routine is the care with which the files are handled. The filing system will be of no use if files and documents that are taken out for reference are not promptly returned to their respective places. This can be done very well by the use of 'Absent' or 'Out' guides. When a folder is removed, the filing clerk will place an 'out' guide in its place and record on it the name of the department to which the folder is taken. He must see that the folders so taken out are promptly returned.

If the filing system is efficiently worked, it can be used as a 'memory tickler' by the various chief executives. For example when a particular file is required by the head of a department, on a certain date instructions to that effect can be given to the filing department which keeps a card index for this purpose and records such instructions on it. When the particular date arrives, the file will be taken out by the clerk and sent to the officer concerned. This practice will dissuade officers from keeping back certain correspondence for immediate future reference.

There may be certain letters of very great importance and hence may be kept in a safe or strong room. If this is done a note to that effect should be made in the relevant file for guidance. Lastly, an important rule that should be followed by this department is that whenever a file is required, the clerk who demands it should not be allowed to take it himself. The filing clerk alone should have access to the cabinets. This will preserve order and system in the documents filed. Laxity in this matter will lead to chaos.

Indexing

An index is a device to show where certain information or documents are to be found. Without an index it would be difficult to find out particular letters, invoices, etc., from a big heap of modern office documents. As the only convenient way of tracing these documents is by their names, the indexes are prepared on the alphabetical method.

There are two main types of indexes commonly used—

(a) Book Index and (b) Card Index

Book Indexes—A book index is a set of sheets arranged in the alphabetical order. There are three ways in which this device is used, (1) The set of sheets is bound together with the book to be indexed, (2) the extendible index, *i.e.*, the sheets are bound with the book in such a way that when the book is opened, the index lies at the side of the book, and (3) the sheets being bound separately, can be used apart from the book.

In order to make the work of tracing a particular name more easy, for example in a ledger book, the alphabetical index is further used with the vowel index. The arrangement in this scheme is that a page with a certain alphabet is divided into six columns—A, E, I, O, U, and Y. When names are written, the columns in which they have to be written are decided by their first vowels.

The Card Index—The card index system has been developed so scientifically in recent times that now it is largely used for recording correspondence, documents, books, or, as a matter of fact, transactions of any kind. The working of the system is described below.

Drawers—There are small cabinets with drawers suitable for holding small cards. There may be a rod running from one end of the drawer to the other meant for holding cards in their places.

Name Cards — Small cards of varying sizes generally 5 in by 3 in or 4 in by 3 in are used for indexing of names. A card is used for each correspondent and on it are written the name, address and the number of the folder, if index is used as an adjunct to the vertical filing system. If it is meant for subject index, then the subject and the number of the folder are written on the card.

The following is a specimen card

Name	N M Trivedi & Co	File No 234.
Address	Vithalbhai Patel Road, Bombay 4	
Dealers in motor car accessories		Large orders of tyres tubes, and spare parts

Guide Cards — For facilities the work of tracing a name card guides with the alphabetical letters are provided in the drawers. Whenever a certain card is required, the particular alphabet is looked for on the guides, and a search is made for a name card behind that guide.

The card index system is useful not only as an aid to the vertical filing of correspondence, but may be used for finding ledger folio numbers, or for sending follow up letters, or for any other information about regular correspondents of an office.

Advantages and Disadvantages of the Card Index — The advantages of the card index system are —

- (1) A new card can be inserted in the index at its exact place without disturbing the alphabetical arrangement of other cards. Unlike the book index, when the name of a new correspondent has to be indexed, it can be done with the least effort.

- (2) With the help of the guide cards any reference can be found within the minimum of time
- (5) This system permits the removal of cards which are no more of any use. Thus those cards which are of any use to the business will remain in the drawers
- (4) It has an unlimited capacity for expansion

The advantages of the card index are so great that its disadvantages do not mar its utility. Its disadvantages are —

- (1) The card index equipment does not permit more than one card to be seen at a time. Thus in looking up many cards some time is bound to be lost
- (2) If a card is misplaced, as it sometimes happens when the cards are not held together by means of a rod the utility of the cards is negatived

Visible Records—During the last decade or two, visible indexes have come into prominence. In this system the equipment consists of a cabinet with almost flat trays. When a tray is pulled out it is suspended at a convenient angle. Fifty or more cards are fixed on the tray in such a manner that when a tray is pulled out the bottom edges of the cards, about $\frac{3}{8}$ of an inch, are visible. Thus the name of a correspondent or a subject written on this portion is clearly visible. This arrangement, therefore, gives the quickest possible reference to any record. Hence it is useful in those offices where speedy reference to documents is necessary.

✓ *Imp* CHAPTER VII. INVOICING

Invoice — An invoice (or a *Biyaḥ*) is a document familiar to all. It is sent by the seller of goods to the buyer when an order is executed. It may be sent with the goods or separately by post. It contains the following information: description of goods, quantity (according to weight, number, measurement or volume), price per unit, other incidental charges and the total value of the goods. Besides this, sometimes mention is made of the terms regarding payment and the mode of transport etc.

Invoices are of two kinds: inland and foreign. Inland invoices are those which are used in the home trade; foreign invoices are used in the trade between different countries. Invoices are also sometimes specified according to the price charged. Thus in the home trade the common type of invoices are the (a) *loco* invoice, (b) *f o r* invoice and (c) *f o r* destination invoice. Similarly in the foreign trade invoices usually drawn are the a) *loco* invoice, (b) *f. o. b* invoice, (c) *c & f* invoice, d) *c i f* invoice and (e) *franco* invoice.

Its utility — The general particulars in an invoice stated above clearly show that an invoice is an important document from the point of both the seller and the buyer.

When the seller sends an invoice, from his point of view it serves the purpose of sending an advice to the buyer about the despatch of goods. If the invoice is accepted as correct by the buyer, he will demand payment.

from the buyer according to the amount of the invoice. Further it is useful as a record of his transactions.

The invoice is useful to the buyer from many points of view. It serves the purpose of an intimation about the execution of his order. He can compare the invoice with the order and see if his instructions regarding quality, price, quantity and packing, etc. have been carried out or not. If there is any mistake, he can immediately write back to the seller about it. Again it is useful to him for the purpose of calculating the selling price and as a record of his purchases.

The importance of an invoice, therefore, requires no stressing. Whether it be written or typed care must be taken to set it out neatly and without errors. The date in the invoice plays an important part and therefore should never be omitted.

Expressions used in Invoices **Weight**—For the purpose of calculating charges to the buyer, the actual weight of the goods only is taken. In specifying weight the following expressions are used.

Gross weight—Weight of the goods and the packing together. **net weight**—gross weight minus the weight of the packing. **net selling weight**—gross weight minus the weight of packing and an allowance made for leakage, evaporation, etc. where it is customary.

Tare—This is weight of the empty boxes, gunnies, etc. It is also used to indicate the weight of the empty railway wagons or other vehicles means for transport.

Draft—It is an allowance made by the seller to the buyer in charging price for the probable leakage or evaporation or loss of goods in any other way. The customary allowances are different in different trades.

Discount—It is a deduction allowed generally as a percentage of the total value. It is deducted only from

the value of the goods without the other charges for packing, etc

Discounts are of two kinds those allowed to encourage a prompt payment of an account *i.e.* *cash discount*, and those allowed from the prices in catalogues, or price lists *i.e.* *trade discount*

Commission —It is also a charge made in the invoice on the percentage of the total value of the goods, *i.e.*, including the additional charges

Interest —It is a charge on an invoice value for postponement of the payment beyond a certain date

E & O E (errors and omissions excepted)—It is an expression placed at the foot of an invoice or many other documents as a safeguard against mistakes. It means that the seller reserves to himself the right to correct any mistakes made in charging etc

Certain Abbreviations —The use of abbreviations of documents though not desirable has become very common. Certain abbreviations have been already explained, *e.g.*, *c & f*, *f o b*, etc. *F o r* means free on rail *i.e.* the price includes all charges up to putting goods in railway trucks. *F o r destination* means that the price includes all charges upto the destination of the buyer

Measurements in feet and inches are indicated as ft ('), in (")

Inland Invoices

A few specimen invoices relating to inland transactions are given on the following pages

Loco invoice—The price charged in such an invoice is known as loco factory or warehouse price. In preparing an invoice, therefore, in addition to the price of the goods the packing carting and other charges are shown separately. As the railway freight can be paid by the consignee it is not a practice to show it in the invoice

SPECIMEN No 1

Loco Invoice

Telegraphic Address

KNOWLEDGE

Telephone No 2756

Invoice No 375

Order No B 178 39

922 Hornby Road

BOMBAY

15th March 1939

*Messrs Trivedi & Co Canal Road Ahmedabad**Bought of THE NATIONAL BOOK DEPOT*

Booksellers & Publishers

No	Particulars	@	Amounts		
			Rs	a	p
10	Mercantile Law by Bannerji	8/	80	0	0
20	Introduction To Economics by Jathar & Beri	4/8	90	0	0
20	Advanced Accounts by Y D Keskar	4/	80	0	0
			250	0	0
	Deduct Discount 20%		50	0	0
			200	0	0
	Add Packing carting charges etc		1	8	0
	Amount Payable E & O E		201	8	0
	Parcel sent by passenger train R R by V P P				

Entered by
A BChecked by
C DThe National Book Depot
P N Shah
Manager

SPECIMEN No 2

Mirzapore Road
Ahmedabad
15th Mar 1939

Mr C G Shah, Shahibaug, Ahmedabad
Invoice from The National Motors, Ltd

Overhauling and repairing
Pontiac (1938) and for
supplying spare parts as per
our quotation No R 54/39
of 1st Mar, 1939

Rs a p

50 0 0

50 0 0

E & O E

P N MEATRE,
Manager

SPECIMEN No. 3.

F. O. R Invoice.

Tele { grams 'Eagle'
phone '2453'

Invoice No. 557

Maskati Market,
AHMEDABAD

Order No, S/25/39

15th March, 1939

*The Deccan Cloth Stores Poona**Bought of Mehta & Co*

Interest at the rate of 5% charged on overdue accounts.

	Rs.	a	p	Rs.	a	p
3 Pieces white Drill 27" X 40 yds @ 8 as per yard	60	0	0			
100 Pairs bleached dhoties, 48", 2/8 No D 100 @ Rs 1½ per pair.	150	0	0			
				210	0	0
Less discount @ 2%				4	3	3
				205	12	9
	E. & O E					
By goods train, freight to pay R R. by V. P. P.	F. O R Ahmedabad					

per pro, Mehta & Co.

S C. Mehta

SPECIMEN No 4.

F. O R Destination

Tele Add **SPEED**
 Telephone No 9857
 Order No M/67
 Invoice No 780

Sandhurst Road
 Bombay
 15th April 1939

The Gujrat Motor Company, Ltd ,

Station Road, Ahmedabad

Bought of The Ideal Motors, Ltd

		Rs	a	p
2 Chevrolet motor trucks (1939)	3000	6000	0	0
Less discount 20%		1200	0	0
		4800	0	0
<p style="text-align: center;">E & O E F O R. Ahmedabad</p>				
Per goods train. Draft and R R. through Bank of India, Ltd				

Entered by
A. B.

Checked by
C. D.

The Ideal Motors, Ltd
 A J Scott,
 Manager,

SPECIMEN No 5

The specimen invoice No 5 shows a specimen of a transaction in which besides the regular trade discount an additional trade discount is given because of the fall in prices. This is generally done for those goods the prices of which, if

SPECIMEN No 7.

F. O. B. Invoice

How the Invoice No 6 would appear if made on f o b. terms is shown in the following invoice The price charged will be arrived at as follows :—


Loco price (net)	..	£ 130 13 4
Packing and making up charges	.	3 15 0
Railway and forwarding charges	..	2 10 0
Dock charges	.	0 10 0
		<u>137 8 4</u>
Commission @ 2½%		3 8 8
		<u>140 17 0</u>

Price per pair = £ 140 17 0 ÷ 2000 pairs
= 1s 4¹⁷/₁₀ d. nearly.

B/L Dated 10th Feb, 1939.

Indent No 654/39

Insurance not effected here

		£	s.	d.	£	s.	d.
 Bombay 1/5	Grey Dhooties $\frac{1}{2}$ in. col. border.						
	1 Bl = 200 prs 48", 2/8 yds 60/70, 500 T. No + 200 prs, 44", 2/7 yds 60/70, 500 T No						
	4 Bls. = 1600 prs. " "						
	5 Bls. = 2000 prs. @ 1/4 ¹⁷ / ₁₀					140	17
		f o b. Liverpool					
	E. & O E. Manchester. 13th Feb, 1939. James Barrow & Co.						

SPECIMEN No 8.

C & F. Invoice.

In the case of C & F. invoice, the price will be arrived at by adding to the f o b price the freight on the goods from the port of shipment to the port of destination


The price will be calculated in the following manner :-

Cost of goods	£ 130 13 4
Packing and making up charges	3 15 0
Railway and forwarding charges	2 10 0
Dock charges	0 10 0
Freight	2 12 5
	<hr/> 140 0 9
Commission @ 2½%	3 10 0
	<hr/> 143 10 9

Price per pair = £ 143 10 9 ÷ 2000 pairs
= 1/5 $\frac{2}{5}$ nearly.

Insurance not effected here

Indent No 654/39.

		£. s. d			£ s d.		
 Bombay 1/5	Grey Dhoties ½ in col border						
	1 Bl.=200prs 48", 2/8yds 60/70, 500 T No + 200 prs. 44", 2/7yds 60/70, 500 T No						
	4 Bl =1600 prs " "						
	5 Bls =2000 prs. @1/5 $\frac{2}{5}$						
					143	10	9
		c. & f. Bombay					
	E & O E Manchester. 13th Feb 1939. James Barrow & Co						

SPECIMEN No. 10

Franco Invoice

The price charged in a *franco* (or *verdu* or *free*) invoice is generally c.i.f. plus the import duty in the country to which goods are being sent and other charges upto the delivery of goods at destination. This invoice is usually prepared in the currency of the importing country. Even the measurements are also given according to those in use in the importing country. Franco invoices are not very common in India's foreign trade.


If the details of the specimen no 6 are employed a franco invoice would be as follows —

C I F	£ 140	s 3	d 1 ¹ / ₆	= R ^s	1572	2	8
Import duty (India)					35	3	9
Dock dues					7	8	0
Cartage					2	4	0
					<hr/> 2257	2	5
Commission @ 2 ¹ / ₂ %					56	8	6
					<hr/> 2313	10	11

Price per pair = Rs 2313-10-11 - 2000 pairs
= Rs 1-26½ nearly

Insurance effected here

Indent No 654/39

 Bombay 23	Grey Dhoties $\frac{1}{2}$ m col border 1 Bl - 200 prs 48" '3 yards 60 70 500 T No + "00 prs. 41" 27 yards, 60 70, 500, T No 4 BIs - 1600 prs " " <hr/> 5 BIs = 2000 prs. @ Rs. 1 2-6 $\frac{1}{2}$ <i>Franco Bombay</i>	<div style="float: left; margin-right: 10px;">Rs.</div> <div style="margin-left: 10px;"><div>a-p</div></div> <div style="clear: both;"></div> <div style="float: left; margin-right: 10px;">Rs.</div> <div style="margin-left: 10px;"><div>a.p</div></div> <div style="clear: both;"></div> <div style="font-size: small;">2313 10 11</div>
<p>F & O E Manches er, 12th Feb., 1932 James Barrow & Co</p>		

Pro Forma Invoice

A *pro forma invoice* as the name suggests is an invoice sent for the forms sake, i.e., it is not an actual charge note for the goods bought. It is sent in the following circumstances —

- (a) In the case of a proposed sale to show to the buyer what would be the price of goods if they are actually purchased. This sometimes becomes useful when certain goods are being introduced in a new market.
- (b) Such an invoice may be sent to the consignee when goods are sent on consignment i.e., when the buyer need not pay for the goods until they are sold. It guides the consignee as to the price at which goods should be sold.
- (c) When the buyer is not known, the seller might send a *pro forma invoice* and demand payment in advance according to the amount of the invoice before goods are despatched.
- (d) When goods are consigned abroad, it is sent for facilitating the calculation of import duties. It is handed over to the customs authorities by the consignee to authenticate the value of the goods.
- (e) Occasionally it is sent where an advice note has not been issued to enable the buyer to check the goods received, before proper invoice is available.

As regards the form there is no difference between a *pro forma invoice* and an ordinary invoice except that in the former the words *pro forma* are written on it.

The following is a specimen of a *proforma invoice* when goods are sent on consignment. The consignee sends an *Account Sale* when the goods are sold.

SPECIMEN No. 11

Pro Forma Invoice

Pro Forma Invoice No 153
 Telegraphic Address—**RADIO**

Telephone No **6143**

Code A B C 5th Edition

Ballard Estate
BOMBAY

15th April, 1939.

Messrs TRIKAMLAL & Co, NADIAD.

Dr to THE BOMBAY RADIO HOUSE, Ltd

Sole Agents for Aerial Radios

Terms : 5% within one month

		Rs	a	p
2 Aerial radios, 5 valves, 1939 model	275/ each	550	0	0
Additional Expenses:—				
Packing and Forwarding		3	8	0
Railway Freight		4	8	0
		558	0	0
E & O E				
Parcel by passenger train Encl R R No 3564				

The Bombay Radio House, Ltd ,
A N Chinoy,

Manager

SPECIMEN No 12

Account Sale.

Account Sale of 2 radios sent by passenger train from Bombay Sold by Messrs Trikamlal & Co Nadiad, on account and risk of The Bombay Radio House, Ltd, Bombay

		Rs	a	p
2 Aerial radios, 5 valves 1939 model	275/ each	550	0	0
Less discount as per agreement (at 10%)		55	0	0
		495	0	0
Deduct charges —				
Octroi		1	8	0
Cartage		0	8	0
Commission on Rs 550 @ 3%		16	8	0
Net		476	8	0
To the credit of The Bombay Radio House, Ltd Bombay				
E C O E				

Per Pro Trikamlal & Co

T. C. Patel

Debit Note (D/N)

A debit note is a statement similar to invoice and is sent by the seller to the buyer when he finds that he has

undercharged on an invoice. It is sometimes sent by the buyer when he finds that he has been overcharged or when he returns any faulty goods. The latter procedure, however, is not supposed to be correct commercial practice. The buyer should rather inform the seller about an overcharge or damaged goods and ask for a Credit Note.

Debit Note

Maskati Market,
AHMEDABAD.
16th April, 1939

Messrs Shah & Co
Girgaum Road,
BOMBAY
Dr to S Kantilal & Co.

		Rs	a	p
To one bale of Dhoties charged on Invoice dated 16.3.39 @ Rs. 116, should be Re 1/6/6				
Difference @	1/6	10	6	0

If the debit note is sent by the purchaser to the seller, it would appear in the following manner:—

187, Girgaum Road,
BOMBAY 4
16th April, 1939

Messrs S. Kantilal & Co.,
Maskati Market, AHMEDABAD.
Debited by SHAH & Co

		Rs.	a.	p.
200 yards of white twill overcharged in your Invoice dated 1.4.39. @ ..	1/9	9	6	0

Credit Note (C/N)

A credit note is sent by the seller to the buyer in the following circumstances to rectify certain mistakes or changes in the invoice

- (i) (a) When goods are returned as faulty.
- (b) When packing cases, etc., are returned, if they were charged in the original invoice ,
- (c) When goods have been damaged and an allowance has to be made for it ,
- (d) When there has been an overcharge in the invoice

(ii) When the seller receives a debit note, as a practice he sends a credit note to the buyer if he is satisfied about the charges in the debit note.

Whenever a debit or credit note is received, it should be promptly acknowledged

(The credit note is usually printed and even entered in red ink to distinguish it from an invoice

Mirzapore Road,
AHMEDABAD.
16th April, 1939

Messrs S Sadanand, & Co
Hosiery Merchants, BARODA
Cr by SHAH & Co

		Rs	a	p
By return of 2 doz under- wears of wrong size		7	8	0

Statement of Account

A seller sends to the buyer a statement of accounts generally at the end of a fortnight or a month. It contains a summary of the invoices and payments made. It also states the opening balance if any, the dates and amounts of goods purchased, the payments made and the final amount due from the buyer.

The utility of such a document lies in this that the buyer is given an opportunity to compare the statement with his own books and if he finds any discrepancy he can write back to the seller about it. If there has been any mistake it will be rectified by means of a debit or credit note.

The statement generally states the terms of payment in any of the following ways —

All accounts net and payable within one month after date of invoice

Account subject to 3% discount if paid on or before next. Otherwise net

A/c net. Interest at 6% per annum will be charged after next

The statement of accounts is supposed to be an indication to the buyer to make payment of the amount due. If however no heed is paid then a copy of the statement may be sent at regular intervals and a hint may be given in the following manner about payment —

This account is overdue. Request your immediate attention

Account very much overdue. Kindly remit by return

Statement of Accounts

Maskati Market
AHMEDABAD,
18th April, 1939

Messrs RAYAJI & Co

Main Street INDORE

Dr to JAIRAMDAS & Co

Wholesale Cloth Merchants

		Rs	a	p	Rs	a	p
1939							
April 1	To Balance				1150	0	0
10	To Goods	5675	0	0			
23	To Goods	1325	0	0	7000	0	0
					8150	0	0
12	By Cash	5000	0	0			
	By Returns	75	8	0	5075	8	0
					3074	8	0
		E	40	E			

Per Pro Jairamdas & Co
J C Shah.

Care of Inward Invoices

Inward invoices are those which are received with the goods supplied by traders or manufacturers. The procedure of handling them when received, though may vary between small and large establishments in certain details is broadly as follows —

- (a) Whenever an invoice is received it is stamped with the date of receipt. There are other

particulars also which the stamp impresses on the invoice and are meant for the purpose of checking it. A stamp with the following particulars may be used

Date received
Received by
Price O K
Quantity O K
Quality O K
Passed by

- (b) *Checking*—The next step is to check the invoice with the goods received and the order sent out. This work is facilitated by the modern *duplicate or triplicate* order system. The order book consists of pads containing order papers numbered in duplicate or triplicate and are removable from the pad. Thus when an order is sent a copy is sent to the Purchase Department (in the duplicate system) and also to the Receiving Department (in the triplicate system). These copies are generally filed in loose leaf binders and can be removed when the order is completed. When the invoice is received the Receiving Department checks it with the copy of the order and the actual goods according to quantity, quality and prices. If they are correct the invoice will be endorsed to that effect.
- (c) *Goods Received Book*—The Receiving Department then enters the details of the invoice in a Goods Received Book ruled in the manner given on the next page—

Goods Received Book

Date	Order No	From whom received	Description	Weight or quantity	Carriage Amount Rs a p	REMARKS

If goods have been returned for one reason or the other, a separate entry is passed in a Goods Rejected Book ruled in the following manner -

Goods Rejected Book

Order No	Sender's Name	Particulars of Goods	Weight or quantity	Cause of rejection	Returned per	Date of receiving Credit Note

- (d) *Informing the Accounts Department* - After the necessary steps have been taken by the Receiving Department, it will pass on the invoice duly certified and usually accompanied by the duplicate copy of the order to the Accounts Department

The Accounts Department deals with the invoices in various ways. The different methods of handling them are (1) The invoices may be forthwith entered into a Purchase Journal in which a record of the credit purchases is kept. Later on the amounts are posted to the supplier's account in the Purchase Ledger. The invoices are then filed in a filing cabinet. (2) In a small establishment where a few invoices are received at intervals it is found convenient to arrange them alphabetically in a box file. At the end of a month, they will be taken out and arranged chronologically according to the names of the firms. The monthly totals will then be entered in the Purchase Journal and from there to the Purchase Ledger. (3) A third method used in some offices is meant for reducing the work of writing the details of the invoice in the Purchase Journal as is done usually. In this method each invoice is given a rotation number according to the entry in the Purchase Journal. The invoices are then filed in an arch file in the order of rotation numbers. When the amounts are posted to the Purchase Ledger, the posting reference consists of the number of the folio of the Purchase Journal and the rotation number of the invoice. Thus if the folio number is 15 and the invoice number is 122, the reference will be written as 15/122.

When credit notes are received from the suppliers for the goods returned, they may be entered on a page following the pages on which the invoices for the month have been entered. The total of the credit notes should be deducted from the total of the invoices for arriving at the net amount of the purchases.

Finally, the payment for the invoice amounts will be made by the cashier according to the routine of the office.

Care of Outward Invoices

The outward invoices require to be treated very carefully as any negligence would lead to unnecessary correspondence and sometimes even spoil the name of the firm. The following procedure may be found useful in taking care of the outward invoices —

- (a) *Handling the Order* — When an order has been received it should be registered in the Order Register. This Order Register may be maintained in the form of a book or a loose leaf pad. The latter procedure is adopted in large scale establishments. The book may be ruled in the following manner —

Order Received Book

Order No	Date	Customer's Name	Description of articles	Weight or quantity	Date delivery required on	Date of despatch	Date of Invoice sent	Remarks

From the above register, duplicate despatch orders are prepared. One copy is sent to the Despatch Department and one is retained in the office. When the order has been complied with, the Despatching Department sends back the despatch order for the preparation of the invoice.

- (b) *Invoicing*—The Outward Invoice Clerk then prepares the invoice in duplicate. Sometimes more copies are taken out and then in that case for different copies papers of different colours are used. One copy is sent to the Accounts Department and one to the customer. In sending the latter copy care is taken to see that it is posted immediately so that it will reach the consignee before or at the same time as the goods reach.
- (c) *The Sales Book and the Ledger*—One of the accounts clerks then enters the invoice in the Sales Day Book. The entries in this Book are the invoice number, customer's name and address and the total of the invoice.

Sales Day Book (Simple Form)

Date	Particulars	Ledger folio	Rs a p		Rs a p	
			Rs	p	Rs	p

As the invoice is entered into the Sales Day Book, the folio number is written on the invoice. Then they are filed in the same order for the reference of the auditors at the time of the periodical audit.

From the sales Day Book, the clerk will post the amounts to the respective ledgers of the customers.

When any goods are returned, a credit note is sent. It is then entered in a *Return & Allowances Book* (Inwards) which is similar to the *Sales Day Book*. From there the item is posted to the credit side of the customer's ledger.

Dr **Specimen Ledger Account** **Cr**
In account with

Date	Parti- culars	Folio	Rs	a	p	Date	Parti- culars	Folio	Rs	a	p

Thus treatment of the invoice in the above manner finally shows the indebtedness of the customer in the *Ledger Book* of the firm or the company.

Use of Machinery for Invoicing

In small concerns invoices are either handwritten or typewritten. But this method has been found inconvenient and also costly in big business offices in America and Europe. Mechanical methods therefore are being adopted for invoicing. The *Elbot Fisher Roll Feed Invoicing Machine* is one which is used in such big offices. It can give as many as twelve copies of an invoice without being required to change either carbon or the paper and operator can take out as many as 500 invoices in a day.

Where this machine is found costly, another smaller invoicing machine—The *Duplex Autographic Desk* can be used. This machine is also automatically fed by a roll of carbon and paper. It gives from two to five copies. Nearly 250 to 500 s is can be easily taken out.

† CHAPTER VIII

COUNTING HOUSE ROUTINE

Opening Collecting Paying and Checking of Accounts

The success or failure of a modern business house with a variety of transactions ultimately depends upon a judicious control over the available cash resources and a proper keeping of the account books. If the cash resources are not properly handled, it is possible that the business might fail because of the insufficiency of capital. If the account books are not maintained in order, very soon the business will be faced with chaos. Inefficient book keeping is one of the main causes of the failure of many business establishments.

To maintain a proper financial control therefore, it is necessary to keep at least the following books:

Books of Original Entry

- (1) Cash Book
- (2) Petty Cash Book
- (3) Purchase Book or Invoice Book
- (4) Sales Journal or Day Book

Ledgers—

- (5) Purchase Ledger
- (6) Sales Ledger
- (7) General Ledger

It is proposed to discuss here the counting house routine with regard to the cash book and the petty cash book only.

CASH BOOK

Cr

Dr.

Particulars	Ledger Folio	Discount Paid	Cash (Recd)	Bank (Paid in)	Particulars	Ledger Folio	Discount (Recd)	Cash Paid	Bank (Drawn out)
Balance forward	132	12/4	125	1033/4	Balance	11	2/1		

Cash Book

The cash book is used by a trader or a commercial office for the purpose of recording receipts and payments of cash. On the left hand side, *i.e.*, debit side are recorded the receipts of payments made by customers, the amount of discount allowed and also the payments made into the bank. On the right hand side *i.e.*, the cred. side entries regarding payments made to creditors, discount to which the office is entitled and the cheques drawn on the bank are made.

A specimen page of a three column cash book is given on the left hand page.

The cash book is generally kept by the head cashier. The entries on the debit or credit side are made according to the memoranda or counterfoils of receipts and payments. Thereafter as soon as possible the respective entries are made to the credit or debit side of the ledger accounts. The work of keeping the cash book is rendered easy by observing the following rules —

- (1) All cash receipts should be acknowledged on printed cash receipts with counterfoils.
- (2) All payments above a certain sum (say Rs. 100) should be made by means of a cheque. Payments should not be made unless the bill or the voucher is passed by the officer concerned.
- (3) All daily cash should be banked.
- (4) For petty payments a weekly, fortnightly or monthly cheque should be drawn and the amount handed over to the Petty Cashier.
- (5) When the cash transactions are numerous, the cash book should be balanced daily.
- (6) From time to time the Bank Pass Book should be tallied with the balance shown by the bank column.

Further it is always desirable that the cashier who handles the cash received from customers and others should have no part in writing up of the ledgers in which the customer's accounts are recorded. As far as possible he should neither have any part nor control over the ledgers and the posting work.

Petty Cash Book

In every business office even though all the cash receipts are paid into the bank every day and all payments are made by cheque it is usually found necessary to keep a small sum of ready money to make payments for telegrams, postages, train fares, carriage, etc. This sum is termed, Petty Cash. It is generally handed over to a clerk in the cash department who is then known as the Petty Cashier.

The head cashier usually hands over a certain sum of money to the petty cashier. At the end of a week, a fortnight or a month according to the practice of the office, the sum that is spent by the petty cashier is given back to him in order to restore the petty cash to its original figure. This method is known as the Imprest System.

The petty cashier is usually given discretion to spend money according to the requirements of the business. Though this is generally true in some offices it is a practice that before certain types of payments are made, the necessary payment orders should be countersigned by the cashier or the accountant. Another practice that prevails in many offices is that in certain cases where expenditure is incurred but a voucher is not likely to be available (e.g. when a taxi is used) the petty cashier obtains a *petty cash voucher* duly signed by the person concerned.

PETTY CASH VOUCHER	
Folio No	
Date	194
Payment for	Amount
Rs	

Recd by

Passed by . . .

As said before the payments made by the petty cashier are recorded in the petty cash book. It may be a simple cash book without separate columns for different items of expenditure, or it may be ruled in such a manner that the expenditure incurred under different headings is recorded in separate columns. In the first type of book the expenditure under different headings will have to be totalled up before posting it to the Expense Account in the Ledger. In the second case the totals are available at the end of the columns whenever the book is balanced. The columnar petty cash book is more useful when the petty cashier is called upon to make a variety of payments. The specimens of the two types are given overleaf.

Credit Information and opening of accounts

Before credit is given to traders and firms, it is essential to make enquiries about their standing, business reputation and financial capacity. In spite of the usual care a number of business offices are required to write off at the end of a year accounts which are irrecoverable. What would be the amounts written off if proper credit

PETTY CASH BOOK (Dissected.)					Dr.		Cr.	
Date	Particulars	Amount	Date	Particulars	Amount	Rs	a	p-
1939 April 6	To Cheque	20 0 0	1939	By Stamps	0 10 0	0	10	0
12	„ Cheque	9 5 0	April 8	„ Carriage	1 3 0	1	3	0
			„	„ Stamps	0 6 0	0	6	0
				„ Pencils	1 2 0	1	2	0
				„ Note books	1 8 0	1	8	0
			„	„ Stamps	0 4 0	0	4	0
			„	„ Stamps	0 8 0	0	8	0
			„	„ Carriage	0 8 0	0	8	0
			„	„ Stamps	0 12 0	0	12	0
				„ Carriage	2 8 0	2	8	0
					—	—	—	—
			„	„ Balance c/d	9 5 0	9	5	0
					20 0 0	20	0	0
					29 5 0	29	5	0
				Analysis				
				Stamps Rs 2-8-0				
				Carriage „ 4-3-0				
				Sundries „ 2-10-0				
April 12	To Balance	20 0 0			9 5 0			

PETTY CASH BOOK (With analysis columns)

Amt. Recd.	Date	Particulars	Total	Carriage	Tele- grams	Postage	Sundry expenses
20 0 0	1939 April 6	Balance b/d	0 8 0			0 8 0	
		Postage	1 8 0	1 8 0			
	"	Carriage	0 12 0			0 12 0	
	"	Postage	1 2 0		1 2 0		
	"	Telegrams	2 0 0	2 0 0			
	"	Carriage	0 10 0			0 10 0	
	"	Postage	0 8 0				0 8 0
	"	Rubbers	0 3 0			1 3 0	
	"	Postage	0 14 0			0 14 0	
	"	Postage	9 1 0	3 8 0	1 2 0	3 15 0	0 8 0
9 1 0		Cheque					
		Balance c/d	20 0 0				
29 1 0			29 1 0				
20 0 0	"	Balance b/d.					

enquiries were not made? To avoid such an eventuality no efforts spent on collecting information would be too great.

References There are different ways in which information may be collected. When an order has come from an unknown firm and goods have to be sold to it on credit, the firm generally gives references. If no references are received it would be wise to make a polite enquiry about them. When references have been received confidential letters should be addressed to the persons concerned to elicit the necessary information. The following are some specimens of letters addressed for this purpose.

Inquiry To A Business firm

Confidential—Messrs Dalal & Shah, Raopura, Baroda have placed an order with us and requested us to open an account in their favour. They have given us your name for reference and state that they have done business with you for many years. May we know in confidence if you find their account satisfactory and whether you consider them good for credit to the extent of Rs 1500/-?

We shall treat your reply as strictly confidential and we shall also be glad to reciprocate in similar enquiries from you if and when necessary.

Reply Favourable.

Confidential—With reference to your letter of the ... instant we beg to say that this firm has enjoyed our confidence for many years and therefore, we should have no hesitation in giving them credit upto a sum of Rs 1500/-.

Unfavourable Reply.

Confidential—With reference to your letter of the ... inst we are rather surprised to read that the firm mentioned by you should have given our name for reference. Our business with them was very small and regarding payment we found them very slow. We, therefore, regret to state that we are not inclined to recommend them for the amount of credit mentioned by you.

Request for References

We thank you very much for your valued order stated the

It is our usual practice as a matter of mere business routine to call for references when a new account is to be opened and therefore we shall feel obliged if you will send them early. We assure you that your order will receive early our earnest attention.

Letter with A pro forma Invoice

(When replies to references are unsatisfactory)

With reference to your order of the instant we beg to enclose herewith a pro forma invoice. The goods are ready and will be promptly despatched on receipt of the amount mentioned in the accompanying invoice.

Information Agencies—Another method for securing the necessary credit information is through inquiry agencies or information bureaus. They make it their business to collect information regarding the financial standing and commercial honesty of different trading houses. Subscribers of these agencies get the information easily and for a reasonable charge. These information agencies have developed successfully in America and Europe. One of such American agencies has nearly 200 branches situated in the important commercial cities of the world. It is however, very unfortunate that no such reliable institutions have been started in India.

Opinion Book or Card Index—The work of the counting house does not end with merely securing references when accounts are opened. It must see that this information is recorded and kept up to date by making the necessary changes from time to time. It would therefore, be necessary to maintain an intelligence department in the office. The work of this department should be to gather information from all possible sources and record it in an Opinion Book or a Card Index arranged

of the agreement or the trade custom or record it in such a way that payment will be made on the due date

Statements of Accounts Due At the end of a certain period (generally one month), the accounts department will prepare a statement showing the accounts against which payment is due

Accounts Due, Jan, 1st

Leger folio	Name and Address	Amount		Allowance	Cash & Discount		Date paid	Remarks
		Rs	a p		Rs a p	Ps a p		
10	Shah and Patel Nadiad	254	0 0	4 0		250 0 0	Jan 10	State ment, Jan 1
3	Luxury Emporium Baroda	100	0 0			100 0 0		Letter Jan 13

The above method becomes useful where the number of accounts is not very large. If the number, however, is very large an alternative method of preparing a card index of the account holders would be found more convenient. The cards may be prepared in the following manner

A/c No

Date

194

NAME

Status Report No

ADDRESS

Account Due On	Rs	a	p	Action Taken

Statement of Account — When the necessary statement has been prepared, the next step is to send a Statement of account to the customer. Usually on receiving it the customer understands that it is a mild reminder for payment and he will forthwith make arrangements for settling the account. But it is also likely that certain customers may not pay any heed to it. It then becomes necessary for the office to take further steps for collecting accounts as early as possible.

Follow up Letters — Once it is known that the customer is not paying any attention to the payment of the account the matter requires to be handled very carefully. In proposing any action the business man should remember that he wants to collect the account and at the same time keep the customer if he can help it. A shrewd business man therefore will try to understand the psychology of the customer before devising his approach. The debtors may be classified as (1) prompt debtors (2) slow debtors, (3) careless debtors and (4) indifferent debtors. After the debtors have been classified he should see to which class the debtor belongs. Then he should write follow up letters at an interval of ten to fifteen days until he comes to the conclusion that it is not possible to collect the account by ordinary methods.

1. The successive follow up letters should be somewhat in the following manner —

- (1) The *first* letter should courteously draw attention to the overdue account.

We notice that the attached account is somewhat overdue. No doubt it has been overlooked and therefore we beg to draw your attention to it and request the favour of an early remittance. Should it be any mistake in the account you will kindly notify us.

- (2) The *second* letter should be sent at the end of *ten* days and should be worded politely yet firmly

We regret to notice that we have not received a remittance in response to our letter of
The account of Rs 245-0- has been standing against your name for the last two months and therefore we must request you to give it your immediate attention

- (3) At the end of another ten days a third letter should be sent worded stiffly

Re Our Account Rs 245.

It is with great reluctance that we have to repeatedly draw your attention to the above account. Although you have been written to previously, you do not seem to be inclined to reply. Unless therefore, settlement is made on or before next, we regret we shall have to take steps to enforce payment.

- (4) The *fourth* letter should be sent after the lapse of a responsible time so that if the debtor is in great difficulties he should have sufficient time to make arrangements. In this letter a hint about legal action may be given.

In spite of many reminders we have not still received any reply with reference to your outstanding account of Rs 245-0-0. If the amount is not remitted in a week's time, most reluctantly we shall have to place the matter in the hands of our legal adviser.

As far as possible these follow up letters should not be stereotyped as the appeal will depend on the nature of the customer you are required to tackle. These letters, however, should be as short as possible. They should not be written on open post cards. The amount that is due should be written in such a way that it will not escape

the attention of the reader. As a rule these letters need not be written in an apologetic tone.

Collecting Agencies—When the letter have failed to evoke any response, obviously the only course now left for the business man is to first use the services of a private collecting agency and then of the court of law. In America and Europe there are institutions which undertake the work of collecting on a very wide scale. In India there are some collecting agencies which undertake to collect overdue bills for a small charge. But by far the more common practice is to send a bill collector who is in the employment of the commercial office.

Giving Receipts—Whenever remittance is received, a receipt should be made out in favour of the sender. Each receipt above the sum of Rs 20/- must bear a stamp of one anna. This is generally cancelled by signing over it. A commercial office usually prints its own receipts which are bound in the form of a book. A specimen of receipt is given on the next page.

Though the bound receipt book with counterfoils are used in the majority of offices, sometimes one comes across other variants like receipted statements or receipted invoices. The idea behind such a practice seems to be to facilitate the work of the receiving cashier who can very easily find out from these documents the amount which is due. But in the adoption of such a practice there is no counterfoil left for the record of the receipt given and, therefore, receipted statements or invoices are not very advisable from the point of sound business practice.

If the remittance received from a debtor is in part payment of the account due, the words *on account* are written on the receipt. This indicates that the whole of the account due has not been settled. In case the amount

No	<p style="text-align: center;">AHMEDABAD STATIONERY MART</p>
194	<p style="text-align: center;">No Ahmedabad 194</p>
	<p style="text-align: center;">Rece ved w th thanks from</p>
Rs	<p style="text-align: center;">of Rupees the sum</p>
	<p style="text-align: center;">in payment of</p>
Rs	<p style="text-align: center;">Stamp</p>

received is in excess of the account, the following words should be written on the receipt—*which amount we have duly passed to your credit*. In making payment if the customer has deducted a wrong amount of discount, a courteous letter should be addressed to him pointing out the mistake and demanding its rectification. In preparing a receipt if it is spoiled, it should not be torn away but should be retained in the book with the word *cancelled* written against it.

As regards the despatch of receipts, care must be taken to see that they are promptly sent soon after the amount has been received. It may be sent without a covering note as is the general practice now a days, or it may be sent with a formal covering letter to the following effect:

We thank you very much for your remittance of Rs. . . . in settlement of our account and have pleasure in enclosing herewith our receipt.

Checking and Paying of Accounts

The payment of accounts generally depends on the terms agreed upon between the parties or the custom of the trade. In this connection there are certain phrases used which indicate the terms of payments. *Prompt cash* means the payment must be as soon as goods are received. Though this is true in some cases, usually three days are allowed for making payment, $2\frac{1}{2}\%$ *prompt* means that a cash discount of $2\frac{1}{2}\%$ will be given if payment is made within a few days. *Ready cash or cash* means that the settlement should be made within ten days. *C O D* means that cash must be paid just before goods are delivered. Though these terms are used in some transactions, the common period allowed in wholesale and large scale retail trade is *net 30 days*, or *2nd 10 days*, *net 30 days*, when these terms are given the creditor sends a Statement

of Account at the end of the month. It is taken by the debtor as an indication that the time for payment has come.

Checking Statements — When a statement is received, it is the cashier's or his assistant's duty to check it. He should look up the supplier's ledger account and see if the statement is correct according to the details of the invoices entered in the ledger. If however, the ledger shows only the total of the invoices then he should compare the statement with the purchase journal or, if necessary, even with the invoices. In checking the statement care should be taken to see that the terms regarding discount and the period of credit have been properly observed. If all the details have been found to be correct, the statement should be endorsed to that effect by the cashier or his clerk. This is generally done by using a rubber stamp

PASSED FOR PAYMENT
Date
Certified by

These certified statements then should be kept in a date file so that they will automatically come for payment on the specified day.

Pay Day — It is a practice in commercial offices to make payment to their creditors on a fixed date. This date will be fixed after taking into consideration the terms of credit. It may be the tenth or the fifteenth of the month according to the custom of the trade. Smaller payments up to a certain sum, however, may be paid on a weekly basis. When payment is to be made

against a bill of exchange (See Bills of Exchange), the office arranges with the bank for its payment on the due date

Methods of Making Payment There are different methods commonly used for paying accounts — money order, postal order, cheque or bill of exchange

Money Orders are used by those persons who have no bank accounts and hence cannot pay by means of a cheque. When money is sent by money order, care should be taken to see that a receipt is given for it and that the name on the receipt corresponds to the name on the form

Postal Orders are used for making very small payments. They are issued in blank and the holder can put any name he likes. They can be crossed like cheques. Crossed postal orders can be collected only through a bank. Between postal orders and money orders, the latter should be preferred because the names of the sender and the receiver are recorded on the postal form

By far the more common practice is to settle the accounts by means of cheques (see Cheques). The cashier draws different cheques according to the statements of account for which payment has to be made. In drawing the cheque, if it is spoiled, the cheque form should in no case be torn into pieces. The word *Cancelled* should be written on it and it should be retained in the cheque book. In filling up the cheque care should be taken about the creditor's name and the amount payable on the counterfoil of the cheque should be written the amount paid as well as the discount received to facilitate the work of writing up the cash book. The cheque and the statement of account are then placed together and sent for the signature of the officer authorised to sign cheques.

When the cheques are signed by the officer, they should be carefully folded together with the statements

of accounts in payment of which they are drawn and sent to the creditor. At the same time the cashier should enter the amount of the cheque and the discount received in the cash book. From the cash book the amount will be posted to the creditor's ledger in due course.

In sending the cheques usually no covering letter is written to the creditor. But some offices send a printed memorandum with the words *With compliments from*

Toucher Cheque In western countries the practice of using cheques with receipts attached to them is growing rapidly. It consists of the cheque particulars of the items covered by the remittance and the payee's receipt. It owes its popularity to the following advantages:

- (1) There is no necessity for returning the statement
- (2) A covering letter is not needed,
- (3) It ensures an acknowledgement being received for the amount paid

As far as the writer's knowledge goes, there are no banks in India which issue such cheque books. It is also said that such a cheque does not conform to the requirements of law. A specimen of such a cheque is given on page 154.

Bill of Exchange—Settlement of accounts is sometimes effected by means of a bill of exchange. How the bills of exchange are drawn and how they are used in settlements is fully discussed in the next chapter. For the present it may be stated that the supplier may draw a bill on the purchaser for the amount of the invoice. The latter would accept it and agree to pay the sum mentioned in it on the specified date. When the date arrives he arranges for the payment, as stated before, through his bank. Traders and commercial offices must take care to

The Eastern Trading Co.,
Ltd Liverpool

Have pleasure in making
settlement of the following—

£ s d
75 0 0

Your inv
No 576

£ 75 0 0

No 4578 Liverpool, 12th April, 1938

LIVERPOOL BANKING CORPORATION, LTD.

Harbour Branch

Pay to *Cash & Co* or order

the sum of *Seventy five pounds only* . .

£ 75-0 0

For The Eastern Trading Co., Ltd.
E A SMITH,
Manager

Received the above-mentioned sum in settlement of the items specified in the margin.

This receipt duly completed will
be accepted as the endorsement

Stamp if £ 2 or over

make proper arrangements for the payment of a bill of exchange as failure to do so will bring discredit on them.

Remittance Book—Some offices record the amounts remitted through the post office in a book called the Remittance Book. Whenever a receipt is received for the amount sent the entry is cancelled by means of red ink. From this it becomes easy for the office to know as to which receipts have not been received. The book may be ruled in the following manner:

Date	Name and Address	Cheques	P. Orders	M. Orders	Stamps
		Rs. a p.	Rs. a p.	Rs. a p.	Rs. a p.

The Receipt—As soon as the amount is received the creditor sends a receipt or acknowledgement, preferably on the same day. If there is any error in the settlement of the account, he may merely acknowledge the amount and draw the attention of the customer to it and demand its rectification. But if no receipt or acknowledgement is received, the cashier should draw the attention of the supplier to the omission after about a week. When receipts are received they should be securely filed in folders in the same order as the entries in the cash book. This facilitates the work of the auditor at the time of checking the account books.

2.7/

CHAPTER IX

PROMISSORY NOTES, BILLS OF EXCHANGE AND CHEQUES

definition one finds that a promissory note to be valid must fulfil the following essential conditions

- (a) *It must be in writing* This means that a verbal undertaking will not be regarded as a promissory note
- (b) *It must give an unconditional undertaking to pay* Firstly there must be an express promise to pay and secondly it must be unconditional. A note which merely acknowledges a certain amount of debt without expressly promising to pay or which makes payment conditional on the happening of something uncertain will not be regarded as a valid note
- (c) *It must be signed by the maker* The signature will make it clear as to the person who undertakes to pay the amount promised. If the maker is an illiterate person his thumb impression or any other mark will be sufficient
- (d) *The amount payable must be certain*—It means that the sum must not be subject to changes later on. Mention of interest, instalments or rate of exchange do not effect the validity of the note
- (e) *It must undertake to pay money and money only* If the maker undertakes to do something besides the payment of a certain sum of money, the note will be invalid
- (f) *The payee must be certain*—The promissory note must make clear as to the name of the person to whom money is payable. A person will be regarded as definite even if he is misnamed or he is designated by description only

- (g) *Place, date or time of payment* do not form an essential part of a promissory note and hence their omission will not vitiate its validity

Kinds of promissory Notes — There are three kinds of promissory notes which the Act recognises (1) a promise to pay to a certain person only (2) a promise to pay to the order of a certain person (3) a promise to pay to the bearer

Promissory notes may also be classified according to the nature of the responsibility of the makers when it is made by more than one person. The responsibility may be (a) joint, or (b) joint and several. When the responsibility is joint, all the persons are jointly liable and will have to be sued together, if it is joint and several, a suit for recovery of the whole of the amount can be filed against any one or all of them.

Specimens of promissory notes are given below

Promissory Note

Bombay, 20th April, 1939

On demand (or three months after date) I promise to pay Mr L S Shah or order the sum of rupees five hundred only, with interest at 6 p c per annum, until payment, for value received

Rs 500/-

Stamp

F P Patel

Signature

Joint Promissory Note

Bombay, 20th April, 1939

On demand we promise to pay Mr N S Bohori, the sum of Rs five hundred only, with interest at 6 p c per annum, until payment for value received

Rs 500

STAMP

N B Kulkarni
C V Satpute
D G Gore

Signatures

Joint And Several Promissory Note

Ahmedabad 20th April 1939

Six months after date we jointly and severally promise to pay to Mr L S. Shah or order the sum of rupees five hundred, with interest at 4 p c per annum for value received

Rs 500'

STAMP

F P. Patel
P. K Shah

Signatures

The Stamp Duty The Indian Stamp Act lays down the following rules regarding the stamp to be affixed to promissory notes

(a) When payable on demand –

If the amount or value does not exceed Rs 250/-	One anna-
If the amount or value exceeds Rs 250/- but does not exceed Rs 1,000-	Two annas
In any other case	Four annas

(b) If payable otherwise than on demand The same duty as on bills of exchange
(See Bills of Exchange)

The stamps prescribed above are the revenue stamps and not the ordinary postal stamps.

Presentment for payment The following are the rules for securing payment of promissory notes and should be carefully noted as, if they are neglected, an unscrupulous maker might take advantage of the loop-holes in law to the detriment of the creditor.

Time of payment –

(a) A promissory note payable at a certain period *after sight* must be presented to the maker by a person entitled to demand payment. After sight means that the period of the note will start after it is exhibited to the maker. Thus to decide the date of maturity presentment for sight is necessary. Such presentment, however, must be made within a reasonable time after the note is made and in business hours and on a business day.

(b) A promissory note payable at a specified period after date or sight thereof, must be presented for payment on the day of maturity. If there be any delay, parties other than the maker may escape from being liable under it.

- (c) Where a promissory note is payable on demand and is not payable at a specified place no presentment is necessary to charge the maker
- (d) If the promissory note is payable in instalments it must be presented for payment of each instalment within three days of the date of payment
- (e) If it is payable on demand it must be presented for payment within a reasonable time after it comes in the possession of the holder

Place of Presentment—

- (f) When a promissory note is made payable at a particular place and not elsewhere it must be presented at that place otherwise the liability of all the parties will be discharged
- (g) If no specific place is mentioned it must be presented at the place of business, if any, or at the usual residence of the maker
- (h) If there is no mention regarding a definite place of payment and if the maker has no fixed residence, it may be presented to him in person wherever he could be found

Difference between a Promissory Note and an I O U

An I O U is an abbreviation of 'I owe you' and merely represents an acknowledgment of a debt. It is not a promissory note though very often is confused to be one. Hence it is not negotiable and does not require a stamp. A specimen of an I O U is given below —

Karachi 20th April 1939

Mr S D Lakhani

I O U Rupees one hundred and fifty only.

Rs 150/-

N S Vasvani

Bills of Exchange

Definition—A bill of exchange is an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to or to the order of a certain person, or to the bearer of the instrument.

An analysis of the above definition will show that to be valid a bill must comply with the following essential conditions —

- (a) *It must be in writing*
- (b) *It must contain an unconditional order to pay* This means that a mere request to pay will not amount to an order. Similarly, if the order is made conditional on the happening of a contingency, the bill will not be valid.
- (c) *It must be signed by the drawer*
- (d) *The name of the drawee must be mentioned*
- (e) *The sum payable must be definite* — Mentioning interest or rate of exchange does not make the bill invalid.
- (f) *The order contained in it must be for money and money only*
- (g) *The payee's name must be stated in it*

The definition further shows that there are three parties to a bill of exchange. They are—

- (1) *Drawer*—the person who makes a bill of exchange
- (2) *Drawee*—the person who is directed by the drawer to make payment of the bill
- (3) *Payee*—the person to whom the payment is directed to be made

Advantages of Bills of exchange —Of all the documents used in modern commerce, the bill of exchange

is a very important because of its usefulness in credit transactions. A large number of bills of exchange is used in the national and international trade. The principal advantages of this document are

- (1) It gives definiteness to the amount of debt and the time of its payment.
- (2) The document being negotiable (i.e., the property in which can be transferred from one person to another) the creditor can discount it with a bank or any other financing agency and get an immediate payment. The debtor, however, will be called upon to pay only on the date on which he has agreed to pay. The bank or the financing agency holds the bill until then. For giving this facility the bank charges a small rate of discount.
- (3) By the use of bills traders and manufacturers get the advantage of the use of commodities immediately without being required to make payment forthwith. It is a means to give credit.
- (4) If it is lost it can be replaced. Moreover, as there is an intervening period before payment is made, if it falls into wrong hands, there is no danger of payment being secured immediately as necessary precautions can be taken to trace the mistake.

Kinds of Bills of Exchange — Bills of exchange are of two kinds: inland and foreign. Inland bills are those which are drawn or made in British India and made payable upon any person resident in British India. A bill not drawn in the above manner is regarded as a foreign bill. The foreign bills will, therefore, comprise of those (1) which are both drawn by, and made payable to

persons outside British India, (2) which are drawn in British India but are made payable to persons resident outside it, (3) which are drawn outside but made payable to persons resident in British India

There are other differences between inland and foreign bills of exchange. They are (a) An Inland bill usually consists of one document only; the foreign bill is generally drawn in sets of two or three with the object of avoiding delay by its loss in transmission. Each part is sent by the subsequent mail so that if one is lost the other may reach in a short time. Each is numbered and provision is made that if one is paid the others become automatically inoperative, i.e., the whole constitutes only one bill. Each part is termed as *via*. When drawn singly, it is termed as *sola*; (b) as will be seen later on, noting and protesting when a bill is dishonoured, are necessary in the case of foreign bills but voluntary for inland bills; (c) the foreign bills are usually drawn at *usances*. *Usance* is the period fixed by custom for the bills drawn in one country and made payable in the other. Inland bills have no such customary binding time limit.

The specimens of inland and foreign bills are given below

Inland Bill

Rs 500/-

Ahmedabad, 20th April 1939

STAMP

Three months after date pay to our order the sum of Rupees five hundred only for value received

To Mr L S Shah, *Per Pro* The Asiatic Trading Co., Ltd
GIRGAUM ROAD, S M. Patel,
BOMBAY. Manager

Foreign Bill of Exchange

£ 150 0 0

London 10th January 1939

STAMP

Sixty days after sight of this First of Exchange (Second and Third of the same tenor and date unpaid) pay to Our Order the sum of one Hundred and Fifty pounds for value received

To, Messrs ROY & CO,

CLIVE STREET
CALCUTTA

HENRY JACKSON & Co

They specimen given above is that of the first of a set of three bills. In the second the wording will be—*First and the Third of the same tenor and date being unpaid* in the third the wording will be *the First and the Second of the same tenor and date being unpaid*

Acceptance—In order to fix responsibility for payment on the debtor (*i.e.* drawee), the bill is generally presented to him for acceptance which may be defined as the signification by the drawee of his assent to the order of the drawer. The acceptance must be written on the bill itself. This may be done by writing the word *accepted* across the bill and by signing below it. An acceptance will be sound even though the word accepted is not written. Mere signature can give a valid acceptance. Acceptance is not complete until the bill is delivered to the holder thereof or a notice to that effect is given to him or to his agent.

As regards presentment for acceptance, a bill of exchange payable after sight or payable a number of days after acceptance must be presented for acceptance. Other

bills need not be presented. It is, however, advisable to get every bill accepted as the liability of the drawee is secured on the bill.

The assent given by the drawee to the order of the drawer may be of two kinds. When the drawee accepts the draft without any qualifications, it is known as *general acceptance*. If, however, he accepts it conditionally, it is known as *qualified acceptance*. The following are the types of qualified acceptances —

- (a) *Conditional*—When payment is made conditional on the happening of something, e.g.
Accepted subject to my receiving money from my creditors.
- (b) *Partial*—When a bill is drawn for Rs 5,000/- accepting it for Rs 2,500/- only.
- (c) *Local*—When the draft is made payable at a particular place and *there only*.
- (d) *Qualified as to time*—Where a bill drawn payable 60 days after date is accepted payable 90 days after date.
- (e) *Acceptance by some Drawees only*—When the bill is drawn on two or more persons, when they are not partners, acceptance by all of them is necessary.

Qualified acceptance is a sufficient ground for the holder to regard that the bill has been dishonoured. He might then give a notice of it to the drawer and other parties (i.e., endorsers) who are liable to him. If, however, he accepts the qualified acceptance without the consent of these parties, they will be discharged from their responsibility.

In order to provide against a contingency of the bill being dishonoured by non acceptance or, as will be seen later on, by non payment the drawer generally writes on the bill the name of a *drawee in case of need*. Another way in which a bill may be accepted, if the original drawer refuses acceptance, is that after the bill has been noted, and protested any person who is not already a party liable on the bill, might accept it for the honour of any party to the bill with the consent of the holder. He is known as *the acceptor for honour*. The procedure regarding dishonoured bills is explained later on.

Generally 48 hours are given to the drawee to consider as to whether he will accept the bill or not. The different specimens of acceptances are given below -

General Acceptance	(1) L S Shah
	(2) Accepted L S Shah
	(3) Accepted payable at Bank of India L S Shah
Qualified Acceptance	(1) Accepted payable on delivery of the B/L at the National City Bank of New York. L S Shah.
Conditional	
Partial	(2) Accepted for Rs 300/ only
Bill for Rs, 500/-	L S Shah
	(3) Accepted payable at the Bank of India and <i>there only</i> L S Shah
Local	
	(4) Accepted payable in 3 months.
Qualified as to time	
Bill drawn at 2 months	L S. Shah

Negotiation—It was stated before that promissory notes bills of exchange and cheques are negotiable instruments. The property in them can be transferred when they are payable either to bearer or to order. The act of negotiation consists in transferring the document from one person to another in such a manner that the latter becomes the holder of it, *i. e.*, the property is vested in him lawfully. If the instrument is a bearer instrument, negotiation can be effected by merely delivering it, if it is payable to order, endorsement and delivery are necessary for negotiation. The meaning of negotiation will become clear from the explanation of terms holder, bearer, order, endorsement and delivery.

Holder—He is the person who is entitled in his own name to the possession of the negotiable document and also to receive or recover its amount from the parties to it. This means that a person who is in mere possession of the document cannot be called its holder, *e. g.* a thief.

Holder in due course—Holder in due course means any person who for consideration became the possessor of a negotiable instrument if payable to bearer, or the payee or the endorsee thereof if payable to order before the amount mentioned in it became payable and without having sufficient cause to believe that any defect existed in the title of the person from whom he derived his title.

Payable to Bearer—A Negotiable instrument is regarded as bearer if it is expressed to be so payable or if the last endorsement on it is an endorsement in blank.

Payable to Order—A negotiable instrument is payable to order if it is expressed to be so payable

or which is expressed to be payable to a certain person and does not contain any words prohibiting transfer or indicating an intention that it shall not be transferrable

Endorsement—An endorsement means signing one's name on the face or back of a promissory note, bill of exchange or cheque with the intention of negotiating it. An instrument payable to order is negotiated by endorsing it and delivering it. Thus endorsement is not complete until the instrument is delivered. The person who endorses it is called the *endorser*, the person in whose favour it is endorsed is called the *endorsee*.

Endorsements are of two types—*Endorsement in blank* and *endorsement in full*. The first type of endorsement is one where the endorser merely signs his name without writing the name of the endorsee. It is then treated as a bearer instrument. If the endorsement consists of not only the signature but in addition the name of the person to whom the money is made transferrable, it is known as *endorsement in full*. An endorsement in blank can be subsequently turned into an endorsement in full.

When an instrument is endorsed and delivered duly, it gives the endorsee a right for further negotiation. But when such right is expressly restricted the endorsement is then known as *restrictive endorsement*, e.g., pay A only.

On endorsing a document the endorser becomes liable to pay if the document is dishonoured. But he can exclude such liability by using words indicative to that effect. He can endorse by adding the words *without recourse to me*. Such an endorsement is then known as *conditional endorsement*.

Endorsement of a part of the sum due on a document is not valid. But if a part of the total sum on a document has been already paid then the document can be endorsed for the remaining sum

Specimens of endorsements

- (1) L S Shah
- (2) Pay to G C Patel or order
L S Shah
- (3) G C Patel
- (4) Pay to S G Marfatia
L S Shah
- (5) S G Marfatia

Endorsements (1), (3) (5) are in blank (2) (4) are in full

Delivery—It has been mentioned above that negotiation is not complete until the instrument is delivered. Delivery means the transfer of the possession of the instrument from one person to the other. It may be *actual* or *constructive*. Delivery is actual when the document is physically handed over from one person to another. It is constructive when the instrument may not be actually handed over but if there is a declaration of intention to hold it on behalf of the transferee law recognises it to be tantamount of delivery.

An instrument may be delivered by *post* at the request of the transferee or by agreement with him. If it is sent otherwise and lost, the sender will have to bear the loss. The authority of the transferee may be implied or expressed.

Liabilities of Parties—The liability of the different parties or their agents to a bill of exchange arises from their signatures to it. The liabilities of the different parties are briefly stated below

Drawer.—He is responsible for payment to the holder of the bill if the drawee or acceptor dishonours it by non acceptance or by non-payment respectively, provided he receives a due notice of dishonour from the holder of the bill of exchange. The notice may be oral or written.

Acceptor—He is primarily responsible for the payment of the bill after he has accepted it. His liability is absolute and unconditional. He is responsible even though the drawer is dead or has become insolvent in the meanwhile, or the goods for which the bill was drawn are not received. In case of default of such payment, he is liable to pay compensation to any party to the bill who might suffer damage by such default.

Endorser—He is liable to the subsequent parties only when the bill has been dishonoured and a due notice of it has been given to him. After the dishonour of an instrument, he is liable on it as if the instrument was payable on demand. He will not be liable, however, if he has restricted his liability by writing the words 'without recourse to me'.

Agent—An agent who signs his name to a bill of exchange without indicating that he signs it as an agent, (e.g., *by per pro*) or that he does not intend to incur personal responsibility, is liable on it except to those who induced him to sign upon the belief that the principal only will be held liable.

Legal Representative—When a legal representative of a deceased person signs his name to a bill of exchange, he is personally liable unless he expressly restricts his liability to the extent of the assets received by him as such. Thus he does not completely escape from liability on a bill.

Of parties between themselves—The liabilities of the different parties between themselves are : (a) Until

the bill is duly discharged, every prior party is liable to the holder in due course, (b) before acceptance the drawer is the person ultimately liable on the bill and the endorsers are liable as sureties to it, in the order in which they have signed, (c) after acceptance, the acceptor is the principal debtor and other parties stand as sureties to it

Payment —The payment of a bill of exchange becomes due from the acceptor on its maturity. The date of maturity for payment is calculated on the following basis. Generally three days are allowed as *days of grace* after the day on which the bill is expressed to be payable. The days of grace do not apply to bills of exchange payable on demand or at sight or on presentment. If the last day of grace falls on a holiday, the day of maturity will be the next *preceding* business day. The expression public holidays include Sundays, New Year's Day, Christmas Day, Good Friday or any other day declared by the local government to be a public holiday. But if the New Year's Day or the Christmas Day falls on a Sunday, and if a bill becomes mature on such a day, it shall be regarded to be due on the next following Monday.

Again, if a bill is payable a certain number of days after date or after sight or after a certain event, the time of payment is arrived at after excluding the day from which the time is to begin to run. If the time is specified in months, a month for the purpose of this calculation means the calendar month. Thus a bill drawn on 31st January and payable one month thereafter becomes mature on the 3rd of March even though February might have 28 or 29 days.

If no time for payment is specified in the bill of exchange, it is regarded to be payable on demand. A bill payable *at sight* or on *'presentment'* is payable on demand.

If a bill of exchange is payable a number of days '*after sight*,' it means after acceptance

All bills of exchange should be presented for payment
The following rules will show how presentment should be made —

- (1) If the bill is payable on demand, it must be presented for payment within a reasonable time. Reasonable time depends on the nature of the instrument and the usual course of dealing with regard to such instruments.
- (2) If it is payable after the expiry of a certain period, it must be presented on the due date.
- (3) It must be presented during the usual hours of business.
- (4) If the instrument is payable at a specified place and not elsewhere it should be presented at that place, if no place is mentioned it should be presented at the usual place of business, if any, or at the residence of the acceptor, if he has no fixed residence, it may be presented to him wherever he could be found.
- (5) If the acceptor is dead, it should be presented to his legal representative.
- (6) If there are two or more acceptors who are not partners the bill of exchange should be presented to all.

Dishonour of a Bill of exchange—A bill of exchange may be dishonoured in two ways—by non acceptance or by non-payment. A bill of exchange is dishonoured by non acceptance when

- (a) It is not accepted within 48 hours of presentment for acceptance, or when acceptance is refused.

- (b) The drawee gives a qualified acceptance and the holder treats it as dishonour
- (c) presentment is excused and the bill remains unaccepted. Presentment is excused when the drawee is a fictitious person, or when he cannot be found with a reasonable search or when the drawee is incompetent to contract or when the drawee becomes bankrupt or dead

A bill of exchange is dishonoured by non payment when after it has been accepted it is duly presented to the acceptor for payment and he refuses payment

When a bill has been thus dishonoured, i.e., either by non acceptance or by non payment the holder must give an immediate notice of dishonour to those parties whom he desires to hold liable. The notice may be oral or written. Failure to give such a notice will discharge the drawer or the endorsers from their liability to him on the said bill. A specimen of a notice is given below

Notice of Dishonour to drawer

Ahmedabad 193 .

Please take notice that a bill for Rs .
drawn by you under date the on and
made payable to has been dishonoured
by non acceptance/non payment

To

Signature

When a bill of exchange has been dishonoured, besides giving the notice as stated above the holder may get the bill *noted*. This is done by a notary public, an official appointed by the Government for the purpose, usually at the place of dishonour. The notary public notes the fact of dishonour on the bill or on a paper

attached thereto and also mentions the date of dishonour, the reasons for it reference to his register his charges and his initials

When a bill has been dishonoured the holder may, within a reasonable time cause it to be noted and also certified by a notary public. Such certificate is called a *protest*. Further when the acceptor of a bill of exchange has become insolvent or his credit has been publicly impeached before the maturity of the bill the holder may, within a reasonable time, cause a notary public to demand better security of the acceptor and on its being refused may within a reasonable time cause such facts to be noted and certified in the above manner. This certificate then is called a *protest for better security*.

The following particulars must be mentioned in a protest.

(a) either the instrument itself, or a literal transcript of the instrument and of everything written or printed on it, (b) the name of the person for whom and against whom the instrument has been protested. (c) a statement that the payment or acceptance or better security as the case may be, has been demanded of such person by the notary public, the terms of his answer, if any, or a statement that he gave no answer, or that he could not be found, (d) when the bill has been dishonoured or a better security for it has been refused, the place and time of dishonour or refusal, (e) the signature of the notary public, (f) in the event of acceptance for honour or payment for honour the name of the person by whom, or the person for whom, and the manner in which such acceptance or payment was offered and effected.

Noting and protest are not compulsory in the case of inland bills, though it is advisable to get the bill noted when it has been dishonoured by non acceptance or by

non payment In the case of foreign bills both are compulsory

The drawer sometimes mentions on the bill an additional name to be referred to in case the bill is dishonoured ; he is known as *Drawee in Case of Need* or in the business language, the *Case in Need* The name of the drawee in case of need is usually mentioned in the foreign bills. In such a case the bill is not regarded to be dishonoured until it has been so dishonoured by the drawee in case of need Such a drawee may pay the bill without a previous protest

When a bill has been dishonoured by non-acceptance, noted or protested, any person who is not already liable on it, may accept it, with the consent of the holder, for the honour of any of the parties to the bill, by writing his acceptance on the bill to the effect that he accepts it under protest This is generally done by writing, as "*Accepted Supra Protest*" He is then known as *Acceptor for Honour*. Similarly, when the bill has been dishonoured by non payment, noted or protested, any person may pay it for the honour of any party liable to pay the same provided he or his agent has declared before a notary public the name of the person for whose honour the payment is being made and such a declaration has been recorded by him. This is known as payment *supra protest* and the person paying it is known as the *Payer for Honour*

Material Alterations — If any material alterations are made in negotiable instruments so that their legal identity of character in regard to terms or relations of parties is altered, such an alteration is void as against any one who is a party to it at the time of making such alteration and does not consent to it, unless it was made to carry out the common intention of the original parties. Thus if

an endorsee makes any material alteration, the endorser is discharged from his liability to him in respect of the consideration. Even though the alteration is made with the consent of all the parties and is valid when the alteration is material the instrument becomes altogether a new instrument and requires a new stamp.

Alterations made with regard to the following particulars are regarded as material: (1) date (2) sum payable (3) period or duration of payment (4) place of payment (5) rate of interest (6) addition of a new party.

The following alterations however are not regarded to be material and are authorised by the Act: (1) crossing of cheques (2) converting a blank endorsement into a full endorsement (3) qualified acceptance (4) completion of a stamped inchoate instrument (i.e. an instrument wholly or partly blank signed and duly stamped).

When a negotiable instrument has been materially altered but the alteration is not apparent any payment made on such an instrument in good faith and without negligence by a person liable on it will be regarded to be proper and will discharge him from his liability.

Hundies—A hundi resembles in effect the bill of exchange and is drawn in any of the Indian languages. The Negotiable Instruments Act does not apply to it unless it expressly indicates in the instrument that the relations of the parties to the instrument shall be governed by the provisions of the Act. Hundies are, therefore generally regulated by the local customs and usages. They are negotiable and are used on an extensive scale in the trade of India. Hundies generally fall into two classes—*Darshni* (payable at sight) and *Muddati* (payable after a specified period). The following are some of the important kinds of Hundies.

- (a) *Shah Jog Hundi* — It is payable to a respectable person only (*Shah*). The drawee before making payment is supposed to satisfy himself about the respectability, title and the address of the payee.
- (b) *Nam Jog Hundi*. — It is payable to the person named in the hundi. As it is usually payable to the order of the person named therein, it can be endorsed by him.
- (c) *Jokhm Hundi* — This type of Hundi is always drawn against goods shipped and the amount is payable only on the safe arrival of the goods. It is in the nature of a policy of insurance.
- (d) *Jawabi Hundi* — It is generally used for remitting money. A person who desires to remit money writes to payee about it and hands over a letter to the same effect to the bank which then presents it to the payee. On receiving a receipt from the payee in the form of an answer, the amount is handed over to him.
- (e) *Zikri Chit* — This is a letter given by the drawer or any prior party to the holder when a hundi has been already dishonoured or is likely to be refused. The chit directs the addressee to honour the hundi.

When a hundi is paid and the liabilities of the parties discharged, it is then termed a *khokha*.

Accommodation Bill — It is a bill of exchange which has been drawn, accepted or endorsed without receiving a consideration for it. The various parties who sign such an instrument do so with a view to accommodate some

party. This may be illustrated from the following example. A draws a bill of exchange on B who accepts it without any consideration having been received merely to accommodate A. A discounts the bill with a bank which pays the amount if the parties are dependable in its opinion. Generally A would give the amount to B in time for him to meet the bill when presented for payment. Even if A fails to pay the amount to B he is liable to pay to the holder for value, in this case to the bank. But B cannot sue A and recover the amount as no consideration has passed between them. Accommodation bills are also known as 'fictitious bills' or 'kites'.

Discounting — When a bill has been drawn, the drawer usually obtains payment on it by handing it over to his bank for collection on the due date. In this case the bank will credit to his account the amount on receiving it from the acceptor. Otherwise, if he so desires, he might discount the bill with the bank and receive an immediate payment on it. The bank will pay him the amount by deducting a discount, i. e., by deducting the amount of interest on the sum for the period of the bill. The bank thus is enabled to utilise its surplus funds and earn a small amount of profit, at the same time the trader receives his amount immediately without being required to wait until the maturity of the bill.

Stamp Duty On Bills.—The stamp duty is applicable to bills of exchange as well as hundies. It has to be paid by the drawer unless there is an agreement to the contrary between the parties. When bills are drawn outside British India, the first holder of it in India must affix a proper stamp to it and cancel it before he presents it for acceptance or payment, or endorses it himself. The stamp duties payable are :

(a) Bills payable on demand ru.

(b) When payable otherwise then on demand but not more than one year after date or sight (see below)

(c) When payable in more than one year after date or sight—the same duty as for a bond of the same amount

Amount	If drawn single	If drawn in a set of two for each part of the set	If drawn in a set of three, for each part of the set
If the amount does not exceed Rs 200	0 3 0	0 2 0	0 1 0
If it exceeds Rs 200 but does not exceed Rs 400	0 6 0	0 3 0	0 2 0
400 " 600	0 9 0	0 5 0	0 3 0
" 600 " 800	0 12 0	0 6 0	0 4 0
" 800 " 1000	0 15 0	0 8 0	0 5 0
" 1000 " 1200	1 2 0	0 9 0	0 6 0
" 1200 " 1600	1 8 0	0 12 0	0 8 0
" 1600 " 2500	2 4 0	1 2 0	0 12 0
" 2500 " 5000	4 8 0	2 4 0	1 8 0
" 5000 " 7500	6 12 0	3 6 0	2 4 0
" 7500 " 10000	9 0 0	4 8 0	3 0 0
" 10000 " 15000	13 8 0	6 12 0	4 8 0
" 15000 " 20000	18 0 0	9 0 0	6 0 0
" 20000 " 25000	22 8 0	11 4 0	7 8 0
" 25000 " 30000	27 0 0	13 8 0	9 0 0
for every additional Rs 10000 or a part thereof in excess of Rs 30000	9 0 0	4 8 0	3 0 0

CHEQUES

Definition — A cheque has been defined by the Negotiable Instruments Act as "*a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand*" It may therefore, be said to be a special form of bill of exchange the two distinctive characteristics of which are that it is always drawn on a banker and is always payable on demand. The customer of a bank is supposed to draw it only when he has got sufficient funds with the bank to meet it.

The parties to a cheque are, of course, the same as to a bill of exchange, viz., the drawer, the drawee, and the payee, besides endorsers and endorsees, if the cheque is negotiated. The provisions of the Act regulating the use of the bills of exchange payable on demand will be applicable to cheques with certain exceptions. These exceptions are (1) in a bill of exchange the acceptor does not become liable until, he has accepted the bill. cheques, however, need not be presented for acceptance and a banker is liable to pay provided it is in order and he holds sufficient funds; (2) a bill of exchange becomes payable on the third day of the days of grace; there are no days of grace regarding payment of cheques and hence payment must be made immediately; (3) a bill of exchange must be presented for payment on the due date and in a manner prescribed by the Act, otherwise the drawer will be discharged from his liability; delay in presenting a cheque for payment does not absolve its drawer from his liability on it, unless the bank fails in the meanwhile and he had sufficient funds with it for making payment; (4) when a bill of exchange is dishonoured by non-payment, a notice of dishonour must be given to the previous parties by the holder; if a cheque is dishonoured, no such notice is

necessary want of adequate funds is a sufficient notice to the drawer

It may be stated here that although a cheque is generally used and also accepted in making and receiving payments in everyday life it is not a *legal tender* and therefore a debtor is not bound to accept it in satisfaction of his claim. It is merely representative money. Thus mere acceptance of cheque does not extinguish a debtor's claim.

Specimen Cheque

No A 34567		A 34567	Ahmedabad	194
	for	THE BANK OF INDIA LIMITED		
194		Ahmedabad		
	Pay		or Bearer	
	Rupees			
	Rs			
Rs	Rs			

Drawing a Cheque—The drawing of a cheque is a matter of importance and should be done very carefully. Any negligence regarding the writing of the particulars on a cheque might affect adversely the position of the drawer or the banker. The danger referred to here is particularly with regard to fraudulent alteration of the name of the payee or the amount payable. Banks therefore expect their customers to use reasonable care in the drawing of cheques. The cheque books issued by banks, therefore have on their covers printed precautions directing

the use of cheques in a manner to prevent forgeries, frauds, etc. The precautions to be noted are as follows, (1) Your cheque book should be kept under lock and key, (2) When drawing a cheque begin to write as near the word 'Rupees' as possible the amount in words, begin the figures as near as possible to 'Rs' (3) for your security in sending your cheques through post or otherwise, you should cross them with thick firm lines from top to bottom at an angle, they can then only be paid through some bank. A brief explanation of the different particulars on a cheque, their significance and how care can be exercised in filling them would be found useful.

Date —The drawer should mention the correct date on which the cheque is drawn. But if he has failed to mention it, a subsequent holder may insert the date on which he believes that the cheque was drawn. If an undated cheque is presented to a bank, it can return it on the ground of its being incomplete. If the drawer so desires, he can post-date a cheque. A post-dated cheque, however, will not be paid by the banker until the date becomes current. If any alterations are made in the date, they will not be valid unless they are countersigned by the drawer.

Payee's Name —Care must be taken to write the payee's name correctly and legibly. Very often mistakes are made in spelling names. These mistakes can be avoided by referring to the letter headings on the letters of the correspondents. In writing the names usually titles of honour are omitted.

Amount in Words and Figures —From the specimen cheque given before, it must have been noticed that the amount of a cheque is written both in words as well as in figures. Care should be taken to see that no mistake is made in entering the amount at both the places, because

if the amount in words and figures is different the cheque may be returned by the bank. Similarly, as stated before, care should be taken to write the amount as near to the word 'Rupees' as possible. If any space is left blank after the amount is written in words, a line should be drawn to prevent any addition of words. The word 'only' should be added at the end of the amount written in words.

Signature — When an account is opened with a bank, a specimen signature is given by the customer to the bank. The signature on the cheque should be the same as the specimen signature. If the two signatures do not tally the bank can return the cheque for faulty signature.

Payable to Payee or Order — As far as possible cheques should be made payable to payee or order as they can be paid or negotiated only by an endorsement. A bearer cheque, however, can be negotiated by mere delivery and therefore it is less difficult for anybody to secure payment on it. Order and Bearer cheques are discussed in more details below.

Crossing — Whenever cheques have to be sent through post or payment is not required in cash over the counter of the bank on which they are drawn, they should be crossed. The meaning of crossing is discussed later on.

Never draw a cheque in Blank — A cheque should never be signed until it is completed in all its particulars, because if any one signs it in blank he would be taking upon himself unknown responsibility. Sometimes when the exact amount to be paid is not known, and the drawer desires to send a cheque without filling in the amount, it is advisable to mark the cheque with a limit as 'under Rs fifty' or 'Not Rs fifty'. These words are generally written near the crossing.

Alterations—If any alterations are made by the drawer they should be attested by his signature

Order and Bearer Cheques—A cheque is regarded as an order cheque when (1) it is made payable to a certain person or his order (2) it is made payable to a certain person with the word 'bearer' struck out and with no additional words to indicate that the drawer does not want the cheque to be transferred. This restriction over transferability of a cheque is written by writing 'Pay only' or 'Not Transferable'. An order cheque can be transferred by the payee for signing over the back of the cheque. If he merely signs his name, it will become a bearer cheque, if he writes the name of the payee and then signs, it is known as 'endorsing over' and the payee will have to sign the cheque before he receives payment or can negotiate it further.

A bearer cheque is one where (1) it is payable to a certain person or bearer, or (2) the name of the payee is not mentioned and the cheque bears the word 'bearer' or (3) the last endorsement on the cheque is an endorsement in blank. A bearer cheque requires no endorsement and can be transferred by mere delivery. Anybody who possesses the cheque can receive payment on it.

A cheque which has been drawn as 'bearer' can be altered to 'order' by the payee or the drawer, but if it is an 'order' cheque, the drawer alone can change it to a 'bearer' cheque. A cheque originally 'bearer' though endorsed in blank or full later on remains a bearer cheque.


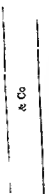


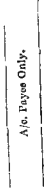
Endorsements—As stated above, an order cheque requires to be endorsed before it can be transferred or paid by the bank. An endorsement must be written on the cheque itself. The signature must conform to the payee's name or the endorsee's name when the cheque is endorsed in full. If the name is wrongly spelt, the

signature also must conform to the wrong spelling, it should, however, be followed by the correct signature. Any courtsey descriptions or titles written before or after the name of the payee should not appear with the signature, they may be written under the signature by way of mere description. The following are some of the typical endorsements.

	Payee	Correct Endorsement
Individuals	Mr C M Shah	C. M Shah Champaklal Maoulal Shah
	C. M Shah, Esq	"
	Dr C M Shah	C M Shah, M D.
	Mrs Shah	Pramila Shah, P Shah
	Mrs Champaklal Shah	Pramila Shah, wife (or widow) of Champaklal Shah
	Miss Indumati Mehta (now married)	Indumati Shah nee Mehta
	(Illiterate), S K Patel	S K Patel & Mork- Witness C. M Shah Paldhi Road, Ahmedabad
Firms	Messrs Shah & Co	Shah & Co or per pro Shah & Co F. M Shah
	Shah Bros	Shah Bros.
	Messrs Shah	S & T. Shah
		Shah & Sons
		Shah Bros, or Shahs
Joint Stock Companies	Eastern Trading Corporation Ltd	Pro, p p, For or per pro Eastern Trading Corporation, Ltd M V Dalal, Secretary or Direc- tor, etc.

Crossing Cheques.—Crossing a cheque means drawing two thick parallel transverse lines across the face of the cheque. Sometimes the words 'and company' or '& Co.' are written between the lines, but they are not a necessary part of the crossing. The words *not negotiable* are also allowed to be used with the crossing. The object of the crossing is to direct the bank that the amount of the cheque should be paid to the account of a person only through some bank. Thus a crossed cheque will not be paid in cash over the counter. There are two types of crossings (1) general, *i. e.*, when the two parallel lines are drawn without the name of the bank to which payment should be made, (2) special, *i. e.*, when the name of the bank through which payment should be made is mentioned in addition to the general crossing. The specimens of the two types are

General Crossings

(1)	(2)	(3)	(5)	(6)
				

A/C Payee Only —The use of these words is meant to instruct the banker that the amount of the cheque should be paid into the payee's account only. When this is done usually the address of the payee's bank is mentioned in the crossing. The banker thus has a right to collect and to credit the amount of the cheque to the payee's account only and to that of no other person. This makes the cheque very safe.

A cheque that is not crossed is known as an *open cheque*. Payment for open cheques can be received over the counter during the business hours of the bank. A cheque that has been crossed can be turned into an open cheque by the drawer by writing the words 'pay cash' across the face of it and by attesting his signature to it. As regards crossing, an open cheque can be crossed generally or specially by its holder or if it is crossed generally he can cross it specially. The holder can also add the words 'not negotiable'. Where a cheque is crossed specially the banker to whom it is crossed may again cross it specially to another banker, his agent for collection. This is the only instance in which a double special crossing is permitted.

The advantages of the facility of crossing cheques to the public in general and the commercial community in particular need no stressing. The drawer or the holder of a crossed cheque knows that even if the cheque were to be lost or mislaid, it would be easy to trace the person who received payment of the cheque from the records of the receiving banker. It should therefore, be a rule in business houses that whenever a cheque is sent in settlement of an account, it should be crossed before it leaves the hands of the officer concerned unless the supplier wants an open cheque. Some banks give to their

customers cheque books containing cheques which are already crossed if they require such a book

Presentment for Payment of Cheques are payable on demand and, therefore are not meant to be negotiated from hand to hand though there is nothing that will ordinarily prevent anybody from negotiating it unless negotiation is restricted. It is, therefore a practice among business men to present cheques as promptly as possible. If the receiver of the cheque and the bank on which it is drawn are in the same place, usually it is presumed that it should be presented at least on the next day, if they are in different places, cheques should be presented at least within one day of their receipt through post at the place where the bank is situated.

When however a cheque is not presented for payment within a reasonable time of its issue, and the drawer had funds with the bank at the time when presentment ought to have been made if he (the drawer) suffers actual damage through the delay he is discharged to the extent of such damage, that is to say, to the extent to which he is a creditor of the bank to a larger amount than he would have been if such a cheque had been paid. The meaning of this legal provision can be best illustrated by examples. When a cheque is drawn for Rs 1000/ and the drawer has sufficient funds with the bank at the time when the cheque ought to be presented if there has been delay in presentation and the bank fails, the drawer is discharged from his liability completely. If, however, he had Rs 600/ only with the bank and if the bank fails in the above circumstances, he is liable to the holder for Rs 400/ only. His liability for Rs. 600/ is discharged.

The reasonable time for presentation of a cheque is decided according to the nature of the instrument, the

usage of trade and of bankers and the facts of particular case

The holder who loses on a cheque as described above becomes the creditor of the bank to the extent to which the drawer is discharged

When a cheque is presented to a bank it is bound to honour it by payment if it has sufficient funds to the credit of the drawer at its disposal at the time of presentment and if the cheque is in order. If it refuses payment of a *bonafide* cheque it may be sued for damages

Cheque Returned Unpaid—Banks usually return cheques to the holder without making payment in the following cases. The reason for returning a cheque is generally marked on slip attached to the cheque—

- (1) When there are not sufficient funds to the credit of the drawer to meet the cheque. This is indicated by writing R/D (refer to drawer or N/S not sufficient)
- (2) When the amount in words and figures do not tally 'words and figures differ'
- (3) When funds are not sufficient because the cheques paid in by the drawer for collection have not been cleared 'effects not cleared or 'present again'
- (4) When the cheque is mutilated 'cheque mutilated'
- (5) When a cheque has become out of date, i.e., usually more than six months old 'out of date'
- (6) When the drawer has countermanded payment 'orders not to pay'
- (7) Cheque is also returned when 'alteration requires completion' by the signature of the person who makes such an alteration or when

the endorsement is not proper or legible, or when there is no account or the account is closed

It has been stated above that a bank must stop payment if the customer has ordered him to do so. The banker, however, must be notified by the drawer of the name of the payee, the amount and the number of the cheque sufficiently in advance. The bank also must stop payment when the drawer has become insolvent or insane or is dead and a notice to that effect has been received by him.

Protection to Bankers—A bank must be very careful while making payment of a cheque to see that the signatures and other directions regarding payment are in order. If it is proved that it was negligent in making payment and if the payment is made to a wrong person or in excess, it will have to suffer the loss. But it is likely that even after exercising due care, it may not be possible for the banker to detect forgeries of the signatures of persons not known or alterations which are not apparent. He may, therefore, be ruined if no protection is given to him in such cases. Law has therefore, provided for his protection in the following cases.

Where a cheque is drawn payable to order and purports to be endorsed by or on behalf of the payee, the banker is discharged from his liability if he makes 'payment in due course'. Here payment in due course means payment made according to the *apparent tenor* (i.e. original directions of the drawer) of the instrument, in good faith and without negligence, to any person who possesses the instrument, under circumstances which do not afford a reasonable ground for believing that he is not entitled to receive the payment of the amount mentioned in the instrument. Such a privilege

negligence, in case the title turns out to be defective, it will not incur any liability only because it has received payment on it. Thus the bank is safeguarded from any action from the true owner of such a cheque even though it has been responsible for converting it for its customer.

CHAPTER X

INSURANCE

In some of the previous chapters reference has been made to the use of insurance for the safe conduct of business. In this chapter, therefore it is proposed to discuss briefly the important forms of insurance and the general principles underlying them. In the ordinary language we understand by insurance the provision which a person with foresight makes against unforeseen or inevitable accidents to life and property and the consequential losses. This he attempts to do by spreading the risk on many shoulders so that the severe effect of the loss will not be felt by any one alone. This work of undertaking to compensate the losses by spreading them on many shoulders is done by the insurance business. Amongst the various branches of insurance business that one comes across today, Marine, Fire, Life and Accident insurance are the most important ones.

Definition of Insurance — 'Insurance is a type of contract between two parties whereby one of them, the insurer, undertakes, in consideration of a single or periodical payment called the premium, to indemnify another person, called the insured or the assured, against a loss arising from the happening of some uncertain event (e.g. fire or accident), or to pay a certain sum of money on the happening of a specified certain event (e.g., death) or at the end of a specified period.'

Thus the various parties to an insurance agreement are the *proposer*—one who proposes a risk to an insurance

company by filling in the proposal form; the *insured* the owner of the thing insured, the *insurer* the person who undertakes the risk in marine insurance he is sometimes known as the *underwriter*.

The consideration which the insured pays to the insurer for undertaking the specified risk is known as the *premium*. It, of course varies with the nature of the risk undertaken. If the insurance is of a type where the proportion of the number of claims to the total policies is large, the premium will be very high. The risk undertaken is generally calculated on the basis of the doctrine of probabilities.

The contract of insurance is embodied in an instrument called the *insurance policy*. The form is generally printed and mentions all the details of the contract relating to the risk undertaken, the time during which the contract is to remain in force, the names of the parties to the contract, etc. The person in whose favour the policy is issued is known as the policy holder.

The Indian Insurance Act (1938) regulates the business of insurance in India. But as regards the legal principles relating to insurance contracts, where no provision is made in the Indian statutes, the corresponding English law is applicable.

Insurance and Assurance—Very often these two terms are regarded as synonymous. But it is also a practice to make a difference in their meanings. Insurance is used to specify a contract wherein the guarantee is given against an event which may happen or which may not happen, i.e., the risk is uncertain. Assurance, on the contrary, is used to specify a contract in which the risk provided against is inevitable, i.e., the event is bound to happen. Death for example is certain and therefore the term assurance is used in the case of life insurance contracts.

Another distinguishing feature of the insurance contract is that the doctrine of *uberrimae fides* (i. e., utmost good faith) applies to it. It means that the insured must disclose all material facts that are known to him and must observe good faith. In the absence of it the insurer can avoid the contract.

MARINE INSURANCE

Ocean transport by its nature is open to many risks and accidental losses are not uncommon. The shipper of cargo and the owner of the vessel run a great risk in transporting goods from one country to another by sea. The shipper must insure goods because the steamship company does not hold itself liable for all the risks of the voyage. In the bill of lading or the charter party it generally introduces the 'excepted perils clause' by which the company excludes its liability for risks such as *Act of God, the king's enemies, arrest and restraint by rulers, princes, and people, fire, barratry of the master or the crew, etc.* The shipper, therefore, has to take out a policy to cover these risks. Thus in respect of goods the liability of the insurer starts where the liability of the shipping company ends similarly, the shipping company stands to lose by the loss of, or damage to, the vessel or by the partial or total loss of the freight which it would have otherwise earned. The shipper of cargo and the shipping company, therefore, are interested in protecting themselves against unforeseen losses. Marine insurance therefore, is vitally important in international over seas trade.

Its Definition — Marine insurance is a contract of indemnity. In this contract one party, the insurer or underwriter, undertakes to indemnify the other, the insured in consideration of the payment of a certain sum of money, against losses arising from certain sea perils. The losses

referred to here may result from the loss of, or damage to ship, cargo freight or other interests during a particular voyage or during a particular period of time. The undertaking to indemnify, therefore, generally aims at securing to the assured who has suffered a loss the same pecuniary position which he held before the loss occurred.

Again, like other insurance contracts it is a contract of utmost good faith. The party assured must also have an insurable interest in the subject matter of insurance. *The person may not have an insurable interest at the time when insurance is effected but he must necessarily have it at the time when the loss occurs.* The following are some cases of persons having insurable interest: (1) ship-owners and owners of goods, (2) a mortgagee to the extent of his claim, (3) an insurer or underwriter to the extent of his liability for risks undertaken (i.e., in re insurance), (4) master and crew in respect of their wages, (5) persons interested in receiving freight, (6) a person who has advanced money for the ship's necessities, (7) a trustee or bailee as regards the property entrusted to his care.

Procedure for Effecting Insurance. A marine insurance policy may be taken out from joint stock companies doing the business or from the association of underwriters known as "Lloyd's". This is perhaps the oldest association of underwriters. Its branches are spread in the principal ports of the world. These underwriters work on the London Royal Exchange. Whenever a policy is to be taken out the services of an insurance broker may be engaged. In the case of joint stock companies it is not necessary that the proposal should come through a broker, but if a proposal is made to "Lloyd's" it must be made through a broker. At present a very large portion of the marine insurance business is transacted by the "Lloyd's".

When the shipper has instructed his broker for effecting insurance under a Lloyd's policy the broker prepares a *slip* as shown below on which the details of the terms offered by the proposer are mentioned. He then goes round and secures the consent of those underwriters who are prepared to underwrite the risk. This he does until

SLIP
HAYDON & Co
S S City of Poona
London to Bombay
On Machinery valued at £ 1000
To Cover all Risks
General Average as per Foreign Statement
At 6s
£ 500 A B Date
£ 500 C D Date

the whole amount is covered. When the necessary signatures have been secured the policy embodying the details from the slip is prepared at the convenience of the parties. The policy is signed by all the persons who have underwritten the slip. It is subsequently handed over to the insured on payment of the premium.

The procedure in insuring with companies is slightly different. To person desiring to take out a marine policy goes to a company's office and fills up a *request note* containing the necessary particulars. This may be called a proposal. When the parties have agreed upon the terms, the company sends a *cover note (also covering note)* informing the proposer that the necessary insurance has been effected. A policy is then handed over to the party in due course on payment of the premium.

without mentioning the name of the vessel or the cargo — This is useful to a trader who has frequent occasions of sending goods between two or more places. Every time a new policy need not be issued. As the shipment is made he declares the name of the ship and other particulars of the cargo against the policy. This policy is also sometimes called an *open policy*.

- (f) *A Wager Policy* — This is a policy issued even when the insured person has no actual insurable interest or when the underwriter is prepared to dispense with any proof of interest. Such a policy, of course, is void. It is sometimes known as a 'P P I' (Policy proof of Interest) policy. Such policies are rarely issued now a days.
- (g) *A Port Policy* — By this kind of policy a ship is insured against damage while it is in the port.
- (h) *An Interest Policy* — It is a kind of policy in which the subject matter is so stated that the policy shows that it is intended to cover real interest, e.g. 200 bales of cotton.

Clauses in Marine Policies — The marine insurance policy which as stated before is the evidence of the contract signed between the parties to it, is a lengthy document framed in the old English style. It is known as the Lloyds, S G policy. Company policies are also modelled on it. From time to time when these provisions of the policy are found to be inadequate or not sufficiently clear, in the matter of a particular policy supplementary clauses are stamped or written in the margin and they are

binding on the parties. The most important clauses are discussed below.

- (1) *Name of the insured* —The name of the insured or his agent is mentioned in this clause. Its wording provides for the assignment of the policy and for giving the assignee the rights under the policy.
- (2) *Lost or not lost* —This clause is inserted when the subject matter, the ship or the cargo, is already on the sea and the underwriter is prepared to accept the risk whether the subject matter is existing or lost at the time of the contract. This kind of protection can be claimed only when the insured or the insurer has no exact knowledge about the state of the subject matter.
- (3) *At and from* —When the subject matter is insured *from* a port and not *at and from* a port, the protection under the policy is received only after the ship starts sailing, if, however, the policy is *at and from* a port the protection can be claimed for the time the policy is accepted if the ship is in the port. Ordinarily it is expected that the ship will start on its journey within a reasonable time.
- (4) *Name of the Vessel and Master* —The policy mentions the name of the ship and the master. If by accident the master so named is not able to take command of the ship, then a substitute may be taken.
- (5) *Commencement and duration of risk* —It is essential that the policy should make clear the time when the risk commences and ends.

In the case of goods if the risk starts from their loading then the insurer's risk starts only after the goods are loaded, similarly, the risk will terminate when the goods are landed or discharged in complete safety. In the case of ships the 'at and from' clause shows when the risk is to start. The insurer's risk however terminates when the ship is moored at anchor for twentyfour hours at safety.

- (6) *Tonnage and stay*—When the insurer undertakes a certain marine risk, it is essential that the route of the voyage should be accurately stated. The policy states the usual route and any deviation from it without a justifiable excuse discharges the insurer from his liability.
- (7) *Valuation*—In the case of 'valued policies' the value of the subject matter is stated in this clause. It is taken to be the conclusive proof of the value unless a genuine error or fraud is discovered in it. If the policy is an open policy the value is decided later on if it becomes necessary to do so.
- (8) *Perils*—This clause states the risk in respect of which the insurer undertakes to indemnify the insured. These risks are
 - (a) Perils of the sea unforeseen accidents like collision damage by sea water coming through holes made by rats storms etc.,
 - (b) fire (c) pirates, rovers, (d) thieves (e) jettison throwing overboard cargo, etc. for the purpose of relieving the ship of some load in times of emergency (f) arrests, restraints and detainment, of all kings, princes and

Free from particular average — (F P A) — The underwriter does not hold himself liable for particular average of deterioration. It is thus an extension of the Memorandum clause. He is however liable for the general average loss. *With particular average* (W P A) — the underwriter is liable for particular loss. *Against all risks* (A A R) the policy covers all insurable marine risks. *Free of all average* (F A A) The underwriter is not liable for either particular or general average, he is liable only in the case of total loss. *Foreign general average* (F G A) — by this clause the underwriter agrees that in case of a general average claim arising under the policy he will pay the assessment made according to the laws and customs of the foreign country. *Running down clause* (R D C) — This is also known as the Collision clause. The underwriter agrees that in case of an accident if the owner of the ship is required to pay damages, the underwriter will pay a part of the damages so paid. This clause is inserted in the case of insurance of ships.

Re insurance — When an insurer finds that in respect of a certain policy he has taken risk beyond safe limits he may re insure a part of the whole of the risk with some other insurer. In the re insurance contract a clause is inserted by which the re insurer is entitled to get credit for any benefits derived by the original insurer. The clauses and conditions of the original policy are binding on the re insurer.

Double Insurance — If the insured takes out two or more policies in respect of the same subject matter and risk, and if the amount exceeds the indemnity allowed by law, he is said to be overinsured by double insurance. In spite of the double insurance the insured is not entitled to receive more than the value of the subject matter. He

may recover the sum from any one of the insurers. As regards the insurers each one is bound to pay rateably to make up the loss in proportion to the amount of the insurance under the policy signed by him. If one insurer has paid more than his share then he is entitled to contribution from others.

Double insurance may occur when two persons having separate interests in the same matter insure their interests under two different policies without any one of them knowing that the other has insured it. In such a case each one may recover the full amount under a separate policy.

Insurer's Liability for Losses — Although the insurer is liable for losses arising from the perils insured against in the policy he is not liable unless the loss is caused directly by them. The insurer further is not liable for any loss if the wilful misconduct of the assured is a contributory cause. When a loss has been brought about by a peril insured against even if the loss is due to the wilful negligence or misconduct of the master or the crew the insurer is liable to pay for the loss.

Similarly, a breach of *warranty* would render the contract void and the insurer would be discharged from his liability. A warranty may be defined as a promise on the part of the insured that a particular thing shall not be done with regard to the contract. The warranties may be expressed in the policy or may be implied from the nature of the contract. The implied warranties are in respect of the seaworthiness of the ship, non deviation and the legality of the voyage.

Kinds of Losses — There are two kinds of losses — *total and partial*. The total loss may be of two kinds — *actual or constructive*.

Actual Total Loss—An actual total loss occurs when the subject matter insured is destroyed, or is so damaged as to cease to be a thing of the kind insured, or where the insured is irretrievably deprived of it. The actual total loss may be in respect of the ship, freight or cargo.

In support of a claim for the actual total loss the following documents are required by the insurer. Protest of Master i.e. a statement by the captain or the crew before a Notary Public, Consul or Magistrate giving the particulars of the voyage and the accident, bills of lading, policy of insurance and invoice.

Constructive Total Loss—Constructive total loss occurs when the subject matter is reasonably abandoned as its actual loss appears to be unavoidable or when it cannot be saved from an actual total loss without incurring an expenditure which may be in excess of its value. Constructive total loss may occur with regard to a ship, cargo or freight.

When a constructive total loss has to be claimed the insured must give *notice of abandonment* declaring his intention to give up his interests in whatever remains of the subject matter in favour of the insurer. If such a notice is not given the loss may be considered to be only partial.

Particular Average—Particular average means partial loss or damage caused by the perils insured against and which is not general average loss. The loss or damage must have been caused accidentally. The loss will have to be borne either by the owner of the subject matter or the insurer. The latter, however, may limit his responsibility in respect of particular average by the Memorandum or the F P A clause.

When goods have arrived in a damaged condition they are surveyed by a surveyer who issues a certificate,

about the extent of damage and the probable value of the goods. A claim can be made thereafter against the insurer if the risk has been undertaken by him. The claim is made on the basis of the difference between the realised value of the damaged goods and the value they would have realised if they were not damaged. This difference is then adjusted to the amount of the insurance. The insured can also realise from him the survey charges, expenses incurred for protecting property from loss if any, etc. The following is a specimen statement of particular average.

Example 500 bags were insured at £ 1000/
50 bags were damaged and when sold realised £ 1 each
brokerage at $\frac{1}{2}\%$ survey charges £ 0 10 0 sale expenses
£ 0 10 0

Statement of Particular Average

	£	s	d	£	s	d
Insured value of 500 bags @ £ 2/ each	1000	0	0			
Damaged 50 bags if sound would have produced	90	0	0			
Value realised	50	0	0			
Damage	40	0	0			
Damage on £ 90 is £ 40, the damage on £ 100 the insured value is				44	8	11
Brokerage @ $\frac{1}{2}\%$ on £ 50	0	5	0			
Survey charges	0	10	0			
Sale expenses	0	10	0	1	5	0
Claim				45	13	11

The documents that are necessary for supporting a claim for particular average are Protest of the captain

or the Log Book, bill of lading, insurance policy, certified statement about cash value of goods in damaged condition and subrogation of his rights in the subject matter by the insured

General average — General average loss is a loss that has been caused by a general average act. The general average act is one where any extraordinary sacrifice, or expenditure is voluntarily and reasonably incurred or made in times of peril, for the purpose of preserving the property in common danger. Where there is a general average loss, the party on whom it falls is entitled to a rateable contribution from the other parties benefitting from such a general average act. Thus the underlying idea is that any sacrifice made by one party for the benefit of all should be compensated by all on a prorata basis. The parties which will be called upon to contribute to a general average loss are the owners of the ship and the cargo and the receiver of the freight.

The procedure on the arrival of the ship, when a general average act has taken place consists in the appointment of experts, the general average adjusters, to prepare a statement showing the liability of the different contributory parties. If necessary the consignees of the cargo may be required to sign an 'Average Bond' in which the shipowner agrees to deliver the cargo subject to the consignee's undertaking to pay their contribution to the general average. Sometimes the ship owner may require in addition a cash deposit against the contribution before he agrees to release the cargo.

The calculation of the contribution by the different parties to the general average loss is shown in the following example

Example Total value of the adventure £ 50000/-
the value of the cargo £ 20000/ value of the ship

£ 25000 value of the freight £ 5000 Cargo worth £ 5000 is jettisoned The average contribution will be as shown below

Contributing interest (1)	Contributing value (2)	Proportion of (2) to total value (3)	Contribution (4)		
			£	s	d
Ship	25000/	$\frac{1}{4}$	2500	0	0
Cargo	20000/	$\frac{1}{5}$	2000	0	0
Freight	5000/	$\frac{1}{10}$	500	0	0
	50000/		5000	0	0

When the goods are insured, the owner of them can claim from the insurer the amount of the general average contribution which he pays

York Antwerp Rules—These are the rules meant for fixing the proportion of the general average contribution. Before these rules were framed different countries had different rules for the computation of the general average. In order to bring about uniformity in the assessment of the liability conferences of jurists, adjusters, merchants, ship owners, etc., of different countries were held at York, Antwerp and Liverpool. The rules framed there are today used as the basis of the general average calculation. A marine policy should indicate that the York-Antwerp Rules will be applicable in the case of general average. If it is not so mentioned the law and practice in vogue at the port of destination will be applicable.

Subrogation—The doctrine of subrogation is applicable to insurance contracts based on the principle of indemnity only. According to this doctrine, the underwriter who has paid the insured for the loss becomes

entitled to the rights and remedies of the insured against third persons liable for the loss. Thus he can proceed against third parties in the name of the insured for compensation. The following rules govern the application of this principle

- (a) Where the insured pays for a total loss of the subject matter he becomes entitled to take over the interest of the insured in whatever may remain of the subject matter so paid for, and he is thereby subrogated to all the rights and remedies of the insured in respect of the subject matter
- (b) Where the insurer pays for a partial loss he acquires no title to the subject matter or whatever remains of it but he is subrogated to all the rights and the remedies of the assured in respect of the subject matter

Assignment of Policy — A marine insurance policy can be assigned unless it contained terms prohibiting such assignment. It may be assigned before or after the loss has occurred. The policy may be assigned by endorsement or any other customary manner. When a policy has been assigned the assignee is entitled to sue on it in his own name.

Fire Insurance

Definition — Fire insurance is a contract of Indemnity by which the insurer agrees in consideration of the payment of premium to indemnify the insured upto a certain amount against loss or injury by fire which may happen to specific property during an agreed period.

As the fire insurance contract is a contract of Indemnity the insured party is entitled, in the event of fire, to recover only the amount of the loss.

Like the marine insurance contract, the principle of *uberrimae fidei* is applicable to these contracts and thus the proposer must disclose all material facts to the insurer whether he is asked to do so or not. Further the principle that the insured must have an *insurable interest* in the thing insured is also applicable to the fire insurance contracts. Thus a person may insure his own property a trustee may insure property held in trust a mortgagee may insure the mortgaged property a common carrier may insure the things that come in his possession during the course of his business a pawn broker can insure the articles that are pawned with him and an insurance company has an insurable interest in the property that has been insured with it and it can reinsure it with another company.

Kinds of Policies — The following are the main kinds of fire policies

- (a) *Specific policy* — This policy covers risk in respect of definite property i.e., goods situated in a particular building.
- (b) *Floating policy*. — It may be taken out to cover risk situated at different places. This kind of policy is usually used in covering goods which are lying at a dock or a warehouse.
- (c) *Valued policy* — The agreed value of the property insured is stated in this kind of policy. In the event of the property being completely destroyed the value so stated will be taken as the basis and the insured will not be called upon to prove the extent of the loss. Thus a valued policy is used to insure all household property which if destroyed by fire would be difficult to value accurately later on.

- (d) *Average policy*—When two or more risks are insured in a single amount under this policy the insurer undertakes to bear only a rateable portion of the loss to the property so insured
- (e) *All in policy*—This kind of policy gives protection to the insured not only in respect of fire but thefts, damage by storms etc

The Proposal and Policy—A person desiring to insure certain property against fire must fill in a proposal form according to the details required. This constitutes an offer to the company which it may or may not accept. When it accepts the offer, it issues a *cover note* which may be regarded as provisional insurance. A policy is later on issued over the signature of the company. The contract, however, is supposed to be complete as soon as the terms are accepted by the company and the company is liable in the event of fire, even if the formal policy is not issued or if there is no provision to the contrary, even if the premium is not paid. Though this is true, it is always safe to secure the policy.

A fire insurance policy is generally issued for one year and at the end of the year it can be renewed. For the payment of the renewal premium, the company allows 15 days of grace. If a fire occurs during the days of grace, the company can be made liable provided the amount of the premium is tendered immediately. Policies which are issued for shorter periods than one year are known as short period policies. No days of grace are allowed on such policies for the purpose of renewal.

The question of deciding the amount of premium in the case of fire insurance policies presents many difficulties because of the complex nature of the risk. In practice the calculation of the premium is usually based on a

consideration of the following hazards, (a) internal hazards—the nature of the property, the provision of fire doors or fire fighting appliances, etc (b) external hazards—those factors which are likely to effect the risk from outside, i.e., construction of hydrants, the nature of the property surrounding the insured property, etc, (c) moral hazards the nature of the owner of the property, whether he is likely to set fire to the property himself wilfully or is capable of deliberately abstaining from taking the necessary steps if fire were to break out. The premium thus has to be adjusted after taking into consideration the probable effect of the above mentioned hazards on the risk.

Important clauses of the Policy—The following clauses in a fire policy are important from the point of adjusting claim in the event of fire —

- (1) *Average clause*—According to this clause, if the property insured is worth more than the amount of the insurance, the “insured shall be his own insurer”, i.e., he shall have to bear the loss, if it occurs, in the proportion of the insured amount to the total value of the property. Thus where the property worth Rs 10,000/- is insured for Rs 5,000/- only, if damage occurs by fire and is valued at Rs 1,000/-, then the insurer will pay only Rs 500/-. The remaining loss will have to be borne by the insured himself. If such a clause is not inserted, the company will be liable for the full amount.
- (2) *Contribution clause*—When the property is insured under more than one policy an insurance company can limit its liability under the policy to the proportionate contribution

in the event of fire by inserting this clause. If there is no such clause, the insured can recover the amount of the damage from any one of the insurer. But the insurer who pays more than what is due from him, can claim contribution from co insurers. When the clause is inserted, it deprives the insured of the liberty to sue anyone of the insurers for the damage.

- (3) *Second average clause* — When property is insured under more than one policy, an insurer may introduce this clause in his policy by which he restricts his liability, in the event of fire, to the excess of any loss over the amount insured under other policies.
- (4) *Marine clause* — When certain goods are the subject matter of marine policy as well as of a fire policy, the insurer under the fire policy may, by introducing this clause, restrict his responsibility only to the extent of any excess of loss over the marine policy.
- (5) *Reinstatement clause* — By this clause the insurer reserves to himself the option of reinstating, replacing or repairing the property that is destroyed or damaged instead of paying the claim in money. This clause is very common in policies covering buildings.
- (6) *Salvage clause* — This clause permits the insurer to enter the premises soon after he receives the notice of fire and take any steps for minimising loss from destruction or damage. Even if he takes any steps in the above manner, it does not amount to an

admission on the part of the insurer of the insured's claim in respect of the fire

- (7) *Arbitration clause*—This clause provides that disputes about claims should be settled by arbitration

Claims—A claim under a fire insurance policy can be made only when (a) the policy is alive at the time of the occurrence of fire and when no breach of warranties has been made (b) the fire was not due to the wilful misconduct of the insured himself (c) the fire was solely and entirely the result of the inherent vice of the subject matter and (d) the cause was directly or proximately (according to the principle of *causa proxima*) the peril insured against

When a fire breaks out, the insured must give an immediate notice of it to the insurer. The policies generally provide for a period within which the notice must be given. The insured must comply with this condition. Further within a reasonable time he should send to the company a claim giving the details of the damage and stating the amount of the claim. It is necessary for him to produce evidence in support of his claim if the insurer requires it.

The fire insurance contract being a contract of indemnity, the insured will not get more than the value of the loss. When the insurer has paid the loss, by the doctrine of subrogation he gets all the rights and remedies of the insured.

Assignment of Fire Policies—Fire policies are regarded to be personal contracts and, therefore cannot be assigned without the consent of the insurer. The insured however may assign to anybody the money due under the policy. But in spite of this legal drawback, most policies contain a provision facilitating their assignment.

Assignment may be made by endorsing or in any other customary manner. In India, Sections 49 and 135 of the Transfer of Property (Amendment) Act 1929, govern the assignment of fire policies.

Sec 49—Where immovable property is transferred for consideration and such property or any part thereof is at the date of transfer, insured against loss or damage by fire the transferee, in case of such loss or damage may in the absence of a contract to the contrary, require any money which the transferor actually receives under the policy, or so much thereof as may be necessary to be applied in reinstating the property.

Sec 135—Every assignee by endorsement or other writing of a policy of marine insurance, or of a policy of insurance against fire in which the property in the subject insured shall be vested at the date of assignment, shall have transferred and vested in him all rights of suit as if the contract contained in the policy had been made with himself.

LIFE INSURANCE

Definition—Life insurance is a contract by which the insurer in consideration of certain agreed payments, called premiums, undertakes to pay a certain sum of money to the person for whose benefit the insurance is made on the death of the person whose life is insured, or on the happening of certain events contingent upon the duration of life.

The life insurance contract, however, differs from the marine, fire or accident insurance contracts in many respects. Firstly the marine, fire, and accident contracts are contracts of indemnity and therefore, the insured after receiving compensation for loss according to the actual value of the loss will be in the same position as before, while in a life insurance contract, a definite sum becomes payable on the happening of the event. Secondly,

all life insurance contracts are contracts for long periods and cannot be cancelled unless there are any legal defects found in them but all other forms of insurance are contracts for short periods and the insurer has an option to refuse their renewal after the expiry of the term. Thirdly the event insured against in the case of marine fire and accident insurance is uncertain and may happen or may not happen. If the event does not take place, the insurer does not pay back any thing from the premiums. In the case of life insurance the event is bound to happen sometime or the other and the amount payable under the contract is bound to be paid.

Like all other insurance contracts the life insurance contract is also a contract based on the principle of *uberrimae fidei* and the insured must disclose all material facts known to him. A non-disclosure of any material fact within the knowledge of the insured would render the contract void. Similarly the insured must have an insurable interest in the happening of the event, i.e., his relation to the event must be such that by its happening he will have to suffer a pecuniary loss. In the following cases persons have an insurable interest: (a) every person has insurable interest in his or her own life, (b) a wife has insurable interest in her husband, (c) a husband has insurable interest in his wife; (d) a creditor has insurable interest in the life of the debtor to the extent of the debt, (e) a surety has insurable interest in the life of the principal, (f) a trustee has insurable interest in respect of the interest of which he is a trustee, (g) a partner in business can insure the life of the co-partner to the extent to which he has advanced capital, (h) a company or business firm may insure the life of its manager or technical experts.

Kinds of Policies — There are many types of policies which are in current use today, but the following ones are important

- (1) *Whole Life Policy* — In this kind of policy, the amount becomes payable only at the death of the insured. The premiums which are generally low, may be paid for a limited number of years or until death according to the arrangement. Such a policy can also be taken out by the payment of a single premium. The policy may be issued with profits or without profits.
- (2) *Endowment Policy* — This is a popular form of policy inasmuch as it gives the insured the benefit of investment as well as insurance. In this kind of policy, the amount becomes payable at the end of a specified period if the person survives the period, or at death if it occurs earlier. The premiums which are a bit higher than in the case of life policies are required to be paid for a limited number of years. The policy may be issued with profits or without profits.
- (3) *Term Insurance* — It is a kind of policy which is issued for a short term. The premiums required to be paid are also low. The principle underlying the policy is that if death occurs within the term of the policy, the company is liable to pay to the insured the sum. If the person survives the period, the company does not pay anything. Such policies, therefore, are taken out on the lives of borrowers of managing partners in firms.

Among the other types of policies issued by insurance companies now-a-days, mention may be made of the Joint-Life Policies, Guaranteed Triple or Double Benefit Policies, Marriage Endowment Policies etc

Procedure for effecting Insurance — A person desiring to insure his life is required to fill in a proposal form. Information bearing on the life, habits and antecedents of the proposer are required to be stated in it with utmost good faith. Further, it is necessary to produce proof of age next birth day, if it cannot be produced immediately, the company allows it to be submitted later on, but if it is not produced at all considerable trouble may be experienced at the time of securing payment of the claim. The company usually requires the names of two referees who are acquainted with the proposer. When the proposal form is thus submitted after being duly completed, the company arranges for the medical examination of the proposer. The medical report and the proposal form are then considered by the company's directors. If they decide to accept the proposal, they inform the proposer accordingly and direct him to pay the first premium. After it is paid the contract is complete and the risk commences. The policy containing the contract is then prepared and after it is duly signed by the directors is delivered to the insured.

The Policy — The life insurance policy issued in the manner described above is the evidence of the contract between the insurer and the assured. All companies do not use a common form; every company may have its own form. The policy must bear a stamp before it is issued. It is signed by one or two directors and the manager of the company. The following are the important particulars in the policy, (1) it states that the policy is issued at the desire of the proposer and on the basis of the

declaration made by the proposer and the medical report, (2) company's liability according to the terms subject to the payment of the first premium and the subsequent premiums on the due dates (3) freedom of the company from liability if it is proved that certain facts have not been fairly stated or that there has been an active concealment of material facts (4) schedule containing particulars regarding the name of the assured his occupation, the sum payable the period of the agreement, etc., (5) the seal of the company and the signatures of the directors and the manager or the secretary as authorised by the articles of the company (6) conditions and privileges—proof of age, the days of grace for the payment of the premiums, revival of lapsed policy, paid up value cash surrender value, benefits for total and permanent disablement, notification to the company and payment of an extra premium if the assured undertakes, subsequent to the issue of the policy, work of any hazardous nature, etc.

Premiums.—Premiums are the consideration which the assured pays to the company for undertaking the risk. These premiums are charged according to the tables prepared by the company. They are based on what are known as Mortality tables. If the assured is employed in a hazardous occupation, the company may charge an extra premium. This is known as loading the premium. Premiums may be paid annually, half yearly, quarterly, or monthly. Generally thirty days of grace are allowed in the case of yearly, half yearly or quarterly premiums and fifteen days in the case of monthly premiums. As regards the monthly premiums, the company may make an additional charge to cover the loss interest and the additional cost of collection charges. The Indian Income tax Act exempts the premiums from income tax upto one sixth of the total income of the assured.

Loans on Policies — Every insurance company now-a-days is prepared to give to the insured the facility of taking a loan on the security of an unencumbered policy. The rate of interest may be from 5 to 6 p c. The company grants loans up to 90% of the surrender value. If the loan is not paid before the policy is surrendered or becomes mature the company is authorised to deduct from the amount due the amount of the loan and interest at the stipulated rate.

Surrender Value — If for any reason the insured is inclined to surrender his policy to the company and relieve it from the contract under the policy, the company is prepared to dissolve the contract by paying an amount which may be a certain percentage of the total premiums paid. This is known as the surrender value of the policy. The company arrives at the surrender value after deducting from the premiums paid a reasonable amount for the risk undertaken during the period and the expenses of management. Companies do not pay surrender values unless the policies have been in force at least for three years. As the duration of the policy increases the insurance companies allow a larger surrender value than in cases where a policy is surrendered within a shorter time.

Proof of Death — When a policy becomes payable on account of the death of the insured, it must be proved. This can be done by producing a certificate of death from the Registrar and a declaration as to the identity of the person described in such a certificate. In case of death by accident or suicide, a copy of the finding of the jury is required. If the death occurs in a foreign country, the certificate of death and the declaration of the medical practitioner who treated the person must

be submitted with an attestation from the British Consul resident there. In addition the person who claims the insured amount must prove his claim by securing a succession certificate or probate of a will or letters of administration. If however, the policy has been properly assigned and a notice to that effect has been given to the company the assignee can get the amount on producing the proof of death.

Assignment of Policy — A life insurance policy can be assigned either by endorsement of the policy itself or by a separate instrument. A notice of assignment must be given to the company to make the assignee's title effective against the company. The company maintains a register in which it records such notices but at the same time it informs the insured that such registration does not amount to the acknowledgment of the title of the assignee.

ACCIDENT INSURANCE

In the Western countries the earliest form of accident insurance was the personal accident insurance. In England by the passage of the Employer's Liability Act, 1880, the employers were made liable for accidents to workmen during the course of employment. They therefore needed protection against this liability. A number of companies were started to deal with the new kind of business. The end of the nineteenth century saw the development of burglary insurance. In the brief period of the twentieth century the various forms of accident insurance now in vogue made a remarkable progress. To-day accident insurance has become an important branch of insurance business on the continent.

Accident insurance, however has not developed much in India. The recently passed Motor Vehicles Act which makes third party insurance compulsory is likely to give a filip to the development in India of this branch of

insurance The following are the important kinds of accident policies that are in use in the Western countries —

- (a) *Workmen's Compensation Insurance*—The policies in this line of insurance are intended to give protection to employers who may be liable to workers for compensation as laid down by the law of the country. In England employers are liable under the Fatal Accidents Act 1846, the Employers Liability Act, 1880, and the Workmen's Compensation Acts, 1925—31, for accidents arising out of and during the course of employment. These policies give relief to the employers from their liability for compensation claims.
- (b) *Motor Vehicles Insurance*—Policies are issued to cover loss of or damage to motor vehicles and motor cycles. They include third party risk.
- (c) *Burglary Insurance*—Policies are issued to cover losses arising from burglary, house breaking and petty thefts.
- (d) *Fidelity Insurance*—Fidelity insurance aims at protecting employers from losses arising from infidelity of specified employees who are entrusted with cash and who may be tempted to defraud companies to large extents.
- (e) *Personal Accident and Sickness Insurance*—Policies are issued to protect the insured persons against personal accidents, specific diseases and illness. This kind of insurance has been developing very rapidly in recent years.

Besides the different forms of accident insurance mentioned above, there are many others which are in common use, e g Bad Debts Insurance, Bad Weather Insurance, etc

BASIC INSURANCE PRINCIPLES

In the discussion of the different forms of insurance reference has been made to the various principles underlying each type of insurance. A brief summary of these principles is given below,

- (1) *Good Faith (Uberrimae fidei)* It has been stated before that all contracts of insurance are known as contracts *uberrimae fidei*, i e, contracts based on utmost good faith. All the parties to the contract must disclose all material facts that are known to them. Active concealment of any known material fact would render the contract void. In addition, all parties must also behave in good faith during the entire period of the contract.
- (2) *Insurable Interest* — Insurable interest is the second important principle underlying insurance contracts. It has been explained before that a person is said to have an insurable interest if his relation to the subject-matter of his insurance is such that he would gain by the existence of the thing and would lose by its loss. The point of time when the insured must have an insurable interest in the subject-matter to render the contract valid varies in different forms of insurance. In life policies, the insured must have an insurable interest at the time of taking out a policy but may not have it at the time when the claim is made; in marine insurance,

it must be existing at the time then the loss occurs, in fire and accident insurance, it must be existing both at the time of taking out a policy and at the time when the loss occurs

- (3) *Indemnity*—All contracts of insurance excepting the contracts of life and personal accident insurance are based on the principle of indemnity by which the insurer is liable to the insured party only to the extent of the actual loss. Thus the inclination for speculative gain is removed from the kind of insurance business and the insured has no temptation to over-insure a thing.
- (4) *Subrogation*—By the principle of subrogation, the insurer gets all the rights and remedies of the insured against third parties to the extent to which he compensates the insured for loss. Thus the insured cannot hope to secure compensation from two or more sources for the same loss. It also gives some protection to the insurer who can hope to recover a part of the whole of the amount paid by way of compensation from third parties where they can be held liable. The principle of subrogation is applicable to contracts of indemnity only.
- (5) *Contribution*—The contribution clause is generally introduced in fire policies and in some accident policies. It seeks to restrict the liability of the insurer to the extent of his rateable proportion of the loss. If this clause is absent from the policy, the insured can recover the whole amount of the loss from any one of the insurers provided the

insured sum covers the loss. But any insurer, who pays the loss in excess of what is due from him, can recover the amount paid in excess from other co-insurers in the proportion of their liability for the loss of, or damage to, the subject matter. Contribution principle does not apply to life insurance or personal accident insurance contracts. Although the contribution clause is unknown in the marine insurance contracts, the principle of contribution is sometimes observed.

- (6) *Arbitration*—The fire and accident insurance policies usually contain a clause known as the arbitration clause by which the parties agree to submit any matter of dispute under the policy to arbitration. This clause is useful inasmuch as a satisfactory settlement of claims under fire and accident policies is a difficult task.
- (7) *Cancellation*—The cancellation clause is commonly found in marine floating policies. It provides that the insurers may give a notice of cancellation at any time by registered post on returning the premium for the unexpired period of the policy. The cancellation clause is availed of by the insurers only in extreme cases where they have ground to believe that the insured has not been fair in his dealings with the insurers or where a fraud has been suspected on the part of the insured.

CHAPTER XI

LAW OF CONTRACTS

'Ignorance of law is no excuse' is the retort which is received by one who, when he comes to grips with law, pleads ignorance about it. Our present society is based on the rule of law and, therefore, every individual must possess the knowledge of essential law in outline. The law of contracts affects every person because every one of us enters into contracts every now and then. In making purchases, in buying a Railway ticket, in hiring a taxi and in many other activities of ours, we are really entering into contracts without ever knowing them. The business man enters into contracts more frequently than the individual. And, therefore if the knowledge of law of contracts is essential in the case of an average individual, it is much more so in the case of a business man. Five points of law he may not know or grasp, but he can certainly avoid the common pitfalls if he possesses some knowledge of the contract law. It is, therefore, proposed to give here a bare outline of the Contract Act.

The law governing contracts in India is embodied in the Indian Contract Act of 1872. It lays down the chief rules relating to the formation, performance and discharge of agreements in general. Originally it contained the law relating to sale of Goods and Partnerships also but latterly the relevant portions were separated and embodied into Self Contained Acts, viz., the Sale of Goods Act of 1930 and the Partnership Act of 1932. Even then today the Act is not exhaustive and certain special types

the proposal is said to be *accepted*. The acceptance may be made by words or conduct. It must be absolute and un conditional and in the manner prescribed by the person making the proposal. Thus when a proposal has been made and accepted it becomes a promise. The person making the proposal is called the *promisor* and the person who accepts the proposal is called the *promisee*.

But every promise does not become an agreement enforceable at law. It must be also backed by consideration. When at the desire of the promisor, the promisee or any other person has done or abstained, from doing, or does or abstains from doing, or promises to do or to abstain from doing, something, such act or abstinence or promise is called a consideration for the promise. But the mere presence of a lawful consideration is not enough to make an agreement enforceable at law. It must satisfy the remaining essential conditions, i. e., free consent, lawful object and competent parties. Thus all contracts are agreements but all agreements are not contracts. It is possible that there may be agreements which do not involve any legal obligation e. g., the giving of gifts, but when an obligation is attached to an agreement, provided other conditions are satisfied, it becomes a contract.

There are certain agreements which are expressly declared by law as void and unenforceable at law. They are discussed latter on. An agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of the other or others is a voidable agreement. Thus a voidable agreement can be enforced so long as the party entitled to avoid it does not do so.

Communication, acceptance and revocation of Proposals The law regards the communication of a proposal as

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etc when it comes to the knowledge of the person to whom it is made. Thus if A proposes, by letter, to sell a house to B at a certain price, the communication of the proposal will be complete when B receives the letter.

The communication of an acceptance is complete against the proposer when it is put in the course of transmission to him, so as to be out of the power of the acceptor. It will be complete against the acceptor when it comes to the knowledge of the proposer. Thus in the foregoing example, if B accepts A's proposal by a letter sent by post, the communication will be complete against A when the letter is posted and as against B when the letter is received by A.

A proposal or an acceptance can be revoked or called back. A proposal may be revoked at any time before the communication of its acceptance is complete as against the proposer, but not afterwards. An acceptance may be revoked at any time before the communication of the acceptance is complete as against the acceptor, but not afterwards. This can be illustrated from the following example. A proposes, by a letter sent by post, to sell his house to B. B accepts the proposal by a letter sent by post. A may revoke his proposal at any time before or at the moment when B posts his letter of acceptance but not afterwards. B may revoke his acceptance at any time before or at the moment when the letter communicating it reaches A, but not afterwards. Thus the communication of revocation is complete as against the person who makes it, when it is put into a course of transmission to the person to whom it is made so as to be out of the power of the person who makes it as against the person to whom it is made, when it comes to his knowledge.

A proposal may be revoked in any of the following ways —(1) by the communication of the notice of revocation to the other party, (2) by the lapse of the time prescribed in such proposal for its acceptance or if no time is prescribed by the lapse of a reasonable time, without communication of the acceptance (3) by the failure of the acceptor to fulfil a condition precedent to acceptance or 4 by the death or insanity of the proposer if the fact of his death or insanity comes to the knowledge of the acceptor before acceptance

Competent parties The second essential condition of a valid contract is that the parties to it must be competent to contract. Law regards every person as competent who has come of the age of majority according to the law to which he is subject, and who is of sound mind and is not disqualified from contracting by any law to which he is subject. From this it is obvious that a *minor* is not regarded as a competent person to contract and therefore, contracts entered into by him are absolutely void. If however, reasonable necessities are supplied to him, his estate can be made liable for it. A minor in India is one below the age of 18 years or, if he is under the supervision of the Court of Wards, below the age of 21 years.

A person of unsound mind is not competent to contract. The law defines an unsound mind as one which is incapable of understanding a contract and of forming a rational judgement as to its effects upon the interests of the person. But a person who is usually of unsound mind and occasionally of sound mind may make a contract when he is of sound mind. Similarly a person who is usually of sound mind, but occasionally of unsound mind may not make a contract when he is of unsound mind. Consequently a lunatic cannot enter into valid contracts. If,

however, he is supplied with reasonable necessities his property can be held liable for it

Apart from these two types of disqualifications, certain persons are sometimes disqualified for being competent to contract on political or other grounds. Contracts of such persons are also void

Free Consent of Parties By consent is understood agreement amongst parties upon *the same thing in the same sense*, i. e., the parties must have the intention towards the subject matter of the contract. In addition, the consent must be free. It is said to be *free* when it is not caused by either coercion, or undue influence, or fraud or misrepresentation, or mistake. The definitions of these terms are given below

Coercion is the committing or threatening to commit any act forbidden by the Indian Penal Code, or the unlawful detaining or threatening to detain any property to the prejudice of any person whatever, with the intention of causing any person to enter into an agreement. Such an agreement is voidable at the option of the party whose consent was obtained in the above manner

Undue influence vitiates the contract when the relations subsisting between parties are such that one of the parties is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other. A person is said to be in a position to dominate the will of the other where he holds a real or apparent authority over the other, or where he stands in a fiduciary relation to the other, or where he makes a contract with a person whose mental capacity is temporarily or permanently affected by reasons of age, illness or mental or bodily distress. The burden of proving that undue influence was not used lies on the person who is in a position to dominate the will of the other. Contracts

where undue influence can be proved are voidable at the option of the party whose consent was so caused. Any such contract however, may be set aside absolutely or, if the party who was entitled to avoid it has received any benefit thereunder, upon such terms and conditions as may be directed by the Court.

Fraud means and includes any of the following acts committed by a party to a contract, or with his connivance or by his agent with intent to deceive another party thereto or his agent, or to induce him to enter into the contract—
 (1) the suggestion as to a fact of that which is not true
 (2) the active concealment of a fact by one having knowledge or belief of the fact
 (3) a promise made without any intention of performing it; (4) any other act fitted to deceive; (5) any such act or omission as the law specially declares to be fraudulent.

But mere silence as to facts likely to affect the willingness of a person to enter into a contract is not fraud unless the circumstances of the case are such that, regard being had to them, it is the duty of the person keeping silence to speak or unless his silence is in itself equivalent to speech.

If fraud is practised in the above manner, the contract is voidable at the option of the party whose consent is obtained by fraud.

Misrepresentation means and includes, (1) the positive assertion in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true; (2) any breach of duty which without an intent to deceive, gains an advantage to the person committing it, or any one claiming under him, by misleading another to his prejudice or to the prejudice of any one claiming under him; (3) causing, however,

innocently a party to an agreement to make a mistake as to the substance of the thing which is the subject of the agreement

In cases of misrepresentation, the contract is voidable at the option of the party whose consent was so obtained. A party to a contract, however, whose consent was secured by fraud or by misrepresentation may, if he thinks it fit insist that the contract shall be performed, and that he shall be put in the position in which he would have been if the representations made had been true. But if such consent was secured by misrepresentation or by fraudulent silence the contract is not voidable if the party whose consent was so obtained had the means of discovering the truth with ordinary diligence.

Mistake or ignorance of fact or law is also a ground for setting aside a contract. Where both the parties to an agreement are under a mistake of *fact* essential to the agreement the agreement is void. This can be illustrated from the following case. A agrees to sell to B a specific cargo of goods supposed to be on its way from England to Bombay. It turns out that before the day of the bargain the ship conveying the cargo has been wrecked and the goods lost. Neither party was aware of facts. The agreement is void. In regard to ignorance of *law*, a contract is not voidable because it was caused by a mistake as to any law in force in British India, but a mistake as to law not in force in British India has the same effect as a mistake of fact; i.e., the contract is rendered void. From the foregoing discussion, it is seen that there must be a mutual mistake. Where, therefore, only one of the parties is under a mistake as to a matter of fact, the contract is not voidable.

Lawful consideration or lawful object—Lawful consideration or object is the very basis of a contract.

If it does not exist a contract is rendered void. It is, therefore, essential to know fully what constitutes a lawful consideration or object. The definition of consideration given by the Act is "when at the desire of the promisor, the promisee or any other person has done or abstained from doing or does or abstains from doing or promises to do or abstains from doing something, such act or abstinence or promise is called consideration for the promise." The consideration thus may be past, present or future. The circuitous definition or analysis would mean that "consideration is something accepted or agreed upon as a *return or equivalent* for the promise" - this may be 'some benefit, right, interest or profit accruing to one party, or some forbearance, detriment, loss or responsibility, given, suffered or undertaken by the other in respect of the promise'. Consideration and object are synonymous terms as what constitutes as consideration from the point of one party becomes the object for the other.

The Act has laid down what are unlawful considerations or objects. A consideration or an object of an agreement is lawful unless - (a) it is forbidden by law, or (b) is of such a nature that, if permitted it would defeat the provisions of any law; or (c) is fraudulent, or (d) involves or implies injury to the person or property of another or (e) the court regards it as immoral or opposed to public policy. If consideration or object is unlawful in the above sense, the agreement is void. If, however, a contract consists of several promises or a promise to do many distinct acts some of which are legal and some illegal, provided they are capable of being separated, the legal portions could be enforced, but the illegal ones would be void. But if they are not separable, the agreement would be entirely void.

All agreements *without considerations* are void, but an exception is made in *three* cases (a) if the agreement is in writing and registered under the law for the time being in force for the registration of documents and is made on account of *natural love and affection between parties standing in a near relation to each other*, or (b) if it is a promise to *compensate*, wholly or partly, a person who has already *voluntarily done something* for the promisor or something which the promisor was legally compellable to do, or (c) if it is a promise made in writing and signed by the person to be charged there with or by his agent generally or specially authorised in that behalf, to pay wholly or in part a *debt* or which the creditor might have enforced payment but for the law for the *limitations of suits*. In any of these cases such an agreement is a contract. Though these are the exceptions provided in Section 25 it further states that the provisions of the Section shall not affect the validity as between the donor and donee, of any gift actually made. Thus if bonus is given by a company to its employees and credited to their accounts in the books, suits could be maintained for their recovery. It is further provided that an agreement to which consent of the promisor is freely given is not void merely because the consideration is *inadequate*, but the inadequacy of the consideration may be taken into account or by the court determining the question whether or not the consent of the promisor was *freely given*.

The following illustrations will make the above provisions clear —

- (a) *A promises for no consideration to give to B Rs 1,000. This is a void agreement.*
- (b) *A, for natural love and affection promises to give his son B Rs 1,000. A puts his promise*

to B in writing and register it. This is a contract.

- (c) A finds B's purse and gives it to him. B promises to give A Rs 50. This is a contract.
- (d) A supports B's infant son. B promises to give A's expenses in so doing. This is a contract.
- (e) A owes B Rs 1,000 but the debt is barred by the Limitation Act. A signs a written promise to pay B Rs 200 on account of the debt. This is a contract.
- (f) A agrees to sell a horse worth Rs 1,000 for Rs 10. A's consent to the agreement was freely given. The agreement is a contract though the consideration is inadequate.
- (g) A agrees to sell a horse worth Rs 1,000 for Rs 10. A denies that his consent to the agreement was freely given. The inadequacy of the consideration is a fact which the court will take into consideration in determining whether A's consent was freely given or not.

Agreements expressly declared to be void—The fifth essential condition of a valid contract is that the agreement must not be one which is expressly declared to be void. The following are declared as void agreements: (a) every agreement in restraint of the marriage of any person other than a minor is void, such an agreement is regarded to interfere with the freedom of an individual and therefore, against public policy and hence illegal, (b) every agreement by which any one is restrained from exercising a lawful profession, trade or business of any kind is to that extent void. But there is one general exception to this rule. One who sells the goodwill of a business may agree with the buyer to refrain from carrying on a similar business, within specified local limits, so long as the buyer, or any person

deriving title to the goodwill from him, carries on a like business therein, provided that such limits appear to the court as reasonable regard being had to the nature of the business. (Besides this originally there were two other exceptions, but they have been repealed by the Partnership Act when it was separated from the Contract Act. These exceptions are : Firstly partners may upon or in anticipation of a dissolution of the partnership, agree that some or all of them will not carry on a business similar to that of the partnership within specified local limits. Secondly, partners may agree that some one or any one of them will not carry on a business other than that of the partnership during the continuance of the partnership); *it every agreement by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract, by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights, is void to that extent.* An agreement, however, to refer a dispute to arbitration, is not void, (d) agreements, the meaning of which is *not certain* or capable of being made certain, are void : (e) agreements by way of *wager* are void. A *wager* is an agreement between two parties by which they undertake that if a given event is determined one way, one of them shall pay a sum of money to the other, and if it is determined in the other way the latter shall pay to the former, (f) agreements to do an *act* which is *impossible* in itself or which becomes subsequently impossible without any default of any party are void.

Written or Registered Agreements—Lastly, an agreement must be in writing, attested and registered if certain laws lay down these conditions as necessary, e.g., the Transfer of Property Act requires every lease, gift, sale, or mortgage of immovable property to be in writing.

Performance of contracts — Performance of a contract means doing or causing to be done what the promiser has promised shall be done. The law lays that the parties to a contract must either perform, or offer to perform unless such performance is dispensed with or excused under the provisions of the Contract Act or of any other law. It lays down further that in case of the death of the promiser before performance, promises become binding on the representatives of the deceased promiser, unless the contract intends otherwise. Contracts involving personal service, skill or qualifications would end on the death of the promiser. This will become clear from the following illustrations

- (a) *A promises to deliver goods to B on a certain day on payment of Rs 1000/ A dies before that day. A's representatives are bound to deliver the goods to B, and B is bound to pay Rs 1000 - to A's representatives*
- (b) *A promises to paint a picture for B by a certain day, at a certain price. A dies before that day. The contract cannot be enforced by A's representatives or by B.*

The demand for performance can only be made generally by the parties to the contract. A third person cannot acquire any rights under it unless he be a beneficiary or an assignee. Thus the following are instances as exceptions to the general rule where a third party can enforce a contract: (a) where by a contract between A and B an express or implied trust is created in favour of C; (b) where a party is estopped from denying liability to pay or to do something for a third person; (c) where there is a family settlement; (d) where on a partition of family a benefit is secured to female members of the family who were

entitled to maintenance, (e) where there has been an assignment of rights under a contract in favour of a third person by act of a party or by operation of law.

Tender is a technical term used to describe an offer of performance of a promise. Where a promiser has made an offer of performance, to the promisee, the promiser is not responsible for non-performance, nor does he thereby lose his rights under the contract, but to obtain this protection the tender must be valid. A tender will be valid if (a) it is unconditional, (b) it is made at a proper time and place, and under such circumstances that the person to whom it is made may have a reasonable opportunity of ascertaining that the person by whom it is made is able and willing, there and then, to do the whole of what he is bound by his promise to do; (c) the offer is an offer to deliver anything to the promisee, the promisee must have a reasonable opportunity of seeing that the thing offered is the thing which the promiser has agreed by his promise to deliver. If there are joint promisees, offer to any one of them in the above manner is an offer to all of them.

As regards the parties who must perform a contract, the Act has provided that if it appears from the nature of the case that it was the intention of the parties to any contract that any promise contained in it should be performed by the promiser, such a promise must be performed by him alone. In other cases, the promiser or his representative may employ a competent person to perform the promise. From this it follows that contracts involving personal skills and qualifications cannot be performed by deputies. If a promisee accepts performance of the promise from a third person, he cannot afterwards enforce it against the promiser.

Further, when two or more persons have made a joint promise then unless a contrary intention appears from the contract all such persons during their joint lives must fulfil the promise after the death of any one of them his representative jointly with the survivor or survivors must fulfil the promise and after the death of the last survivor the representatives of all jointly must perform the promise. In the case of joint promisers, if there is no agreement to the contrary the promisee can *compel any one or more of such joint promisees to perform the whole of the promise*. But to protect the position of the joint promisers *inter se* it is provided that unless there is a provision to the contrary each of two or more joint promisers may compel every other joint promiser to contribute equally with himself to the performance of the promise. If, however, any joint promiser defaults, the loss so arising must be shared equally by the remaining joint promisers.

Further, if one of the joint promisers is released by the promisee, it does not discharge the other joint promiser or promisers nor does it free the promiser so released from responsibility to the joint promiser or promisers.

Further, if a person has made a promise to two or more persons jointly, unless it is provided to the contrary, the right to claim performance rests with them during their joint lives and with their representatives jointly after the death of any or all of the joint promisees. Thus when A in consideration of Rs 5000 lent to him by B and C, promises B and C jointly to repay the sum with interest on a day specified B dies. The right to claim performance rests with B's representative jointly with C during C's life and after the death of C with the representatives of B and C jointly.

Time and Place for Performance Where according to the terms of a contract a promiser is to perform his promise *without application by the promisee*, and *no time for performance is specified* the undertaking must be performed within a reasonable time. What is a reasonable time will depend on the nature of a particular case. But in the above case if the *day of performance* is mentioned, the promiser may perform it at any time during the usual hours of business on such a day and at the place at which the promise ought to be performed.

When, however, a promise is to be performed on a certain day, and the promiser has *not* undertaken to perform it *without application by the promisee*, it is the duty of the promisee to apply for the performance, at a proper place and within the usual hour of business.

But when a promise is to be performed *without application* by the promisee, and *no place is fixed* for the performance of it, it is the duty of the promiser to apply to the promisee to appoint a reasonable place for the performance of the promise and to perform it at such a place.

The performance of any promise may be in any manner, or at any time which the promisee prescribes or sanctions. Thus if A owes B Rs 1000/- B accepts some of A's goods in reduction of the debt. The delivery of the goods operates as a part-payment.

As regards *reciprocal promises* to be simultaneously performed, no promiser need perform his promise unless the promisee is ready and willing to perform his reciprocal promise. If the order in which promises are to be performed is fixed, they must be performed in that order, if no order is fixed, they should be performed in the order indicated by the nature of the contract. Further, in reciprocal promises, if one party to the contract prevents

the other from performing his promise, the contract becomes voidable at the option of the party so presented, and consequently he is entitled to compensation for any loss which he may suffer. If the performance of one promise is dependent on the performance of the other, if the promiser of the latter fails to perform it, such promiser cannot claim the performance of the reciprocal promise and must make compensation to the other party to the contract for any loss which he may suffer by the non performance of the promise.

In cases discussed hitherto *time* was *not* regarded as the *essence of the contract* and in those contracts where time was not mentioned a party was supposed to perform it within a reasonable time. But Section 55 lays down that when a party to a contract promises to do a certain thing at or before a specified time, and fails to do any such thing within the time, the contract or a part of contract not so performed becomes voidable at the option of the promisee if the *intention* of the parties was that *time should be the essence of the contract*. If, however, by the intention of the parties time was not the essence of the contract, the contract does not become voidable in the above manner, but the promisee is entitled to compensation if he suffers any loss by its non-performance before specified time. Further, if in case of a contract voidable on account of the promiser's failure to perform his promise at the agreed time, the promisee accepts performance of it at any time other than that agreed the promisee cannot claim any compensation for any loss occasioned by its non-performance at the time agreed, unless at the time of such acceptance he gives notice to the promiser of his intention to do so.

Discharge of a Contract —The discharge of a contract is its termination. A contract may be discharged in the following ways - (a) it may be discharged by fulfilling the promises. Thus when obligations undertaken are carried out the contract comes to an end in the natural course, (b) it may be discharged by *mutual agreement* between the parties. Thus an agreement of *waiver* or abandonment to the effect that the contract shall not bind any of the parties ends the obligations, or the parties may agree to *substitute a new contract* in place of the old one and thereby agree to discharge the original contract or the contract may end by the *non-fulfilment of a condition* or the *occurrence of an event* if there is a provision that the fulfilment of a condition or the occurrence of a certain event shall discharge the parties from further liabilities; (c) it may be discharged if the performance of the contract becomes *impossible* by reason of some event which the promiser could not prevent, (d) it may be discharged by the *operation of law* e.g., when a person is declared as bankrupt and discharged, all his debts and liabilities terminate, (e) it may be discharged by a *breach of promise*. When a party to a contract has refused to perform, or disabled himself from performing his promise *in its entirety*, the promisee may put an end to the contract, unless he has signified by words or conduct his acquiescence in its continuance. Every breach of promise confers a right of action upon the injured party against the party who has committed the breach, and also discharges the injured party from his obligations under the contract.

Forms of Breach and Remedies —A breach of promise leading to discharge may occur - (a) "by *renunciation* before the obligation for performance becomes due, (b) by *impossibility* created by one party before performance

is due, (c) by *renunciation in the course of performance*, (d) by *impossibility created by one party in the course of performance* (e) by *failure of performance at part or whole of the promise*

Every party injured by breach of promise derives three rights (1) specific performance, (2) injunction, and (3) damages. In all cases of breach the injured party is entitled to receive damages though they may be merely nominal. If damages can adequately remedy a breach the courts will not usually grant specific performance. Similarly injunction will not be granted if the court is satisfied that sanction of damages would adequately make good the loss suffered by the injured party.

Damages. When a contract has been broken the party who suffers by such a breach is entitled to receive from the party who has broken the contract compensation for any loss or damage caused to him. The object of granting such a compensation is to put the injured person in the same position with respect to damages as if the contract had been performed. Hence compensation can be claimed only when the loss or damage arises naturally in the usual course of things from such breach or which the parties knew, when the contract was made, to be likely to result from the breach of it. Such compensation, however, will not be given for any remote and indirect loss or damage sustained by reason of the breach. It is further provided that in estimating the loss or damage the means which existed of remedying the inconvenience caused by the non performance of the contract must be taken into account.

The same conditions apply to a case when an obligation resembling a contract has been undertaken and has not been discharged. Any person injured by the failure to discharge it is entitled to receive the same compensation.

from the party in default as if such person had contracted to discharge it and had broken his contract

In conclusion, it should be noted that damages are given as a compensation to put the person in the same position in which he would have been if the contract had been performed and not as punishment. The injured party can, therefore, recover only the actual loss suffered by him and not exemplary damages

In cases of contracts, however, where a sum is named by the terms of the contract as the amount to be paid when a breach occurs or where the contract contains any other stipulation by way of penalty, (*i e., liquidated damages and penalty*) the party suffering from breach is entitled, whether or not actual damage or loss is proved to have been caused, to receive from the party breaking the contract *reasonable* compensation not exceeding the amount mentioned or as the case may be, the penalty stipulated in the contract. But an exception is made to this general provision when any person has entered into any *bail-bond, recognizance* or any other *instrument of the same nature*, or under the orders of the Government of India or of any local Government, has given any bond for the performance of any public duty or act in which the public are interested, in such cases if a party commits a breach of any such instrument, he shall be liable to pay the *whole* sum mentioned in the instrument. The following cases will illustrate the points discussed above —

- (a) *A contracts with B to pay B Rs 1000 if he fails to pay B Rs 500 on a given day. A fails to pay B Rs 500 on that day. B is entitled to recover from A such compensation not exceeding Rs 1000 as the court may consider reasonable.*

- (b) *A contracts with B that if A practises as a surgeon within Calcutta he will pay B Rs 5000/ A practices as a surgeon in Calcutta B is entitled to such compensation not exceeding Rs 5000 as the court may consider reasonable*
- (c) *A gives a recognizance binding him in a penalty of Rs 500 to appear in a court on a certain day He forfeits his recognizance He is liable to pay the whole penalty*
- (d) *A gives B a bond for the repayment of Rs 1000/ with interest at 12 p c at the end of six months with a stipulation that in case of default, interest shall be payable at the rate of 75 p c from the date of default This is a stipulation by way of penalty, and B is only entitled to recover from A such compensation as the court considers reasonable*
- (e) *A who owes money to B, a moneylender, undertakes to repay him by delivering to him 10 maunds of grain on a certain date, and stipulates that in the event of his not delivering the stipulated amount by the stipulated date he shall be liable to deliver 20 maunds This is a stipulation by way of penalty and B is only entitled to reasonable compensation in case of breach*
- (f) *A undertakes to repay B a loan of Rs 1 000 by five equal monthly instalments with a stipulation that in default of payment of any instalment, the whole shall become due. This stipulation is not by way of penalty*

and the contract may be enforced according to its terms

- (g) *A borrows Rs 100/ from B and gives him a bond for Rs 200/ payable by five yearly instalments of Rs 40/ with a stipulation that in default of payment of any instalment the whole shall become due. This is a stipulation by way of penalty*

Agency

In Chapter III of this book the role of the different mercantile agents in trade has been briefly discussed. It is proposed to give here in outline the relating law to agency.

Agent and Principal defined — An agent is a person employed to do any act for another or to represent another in dealings with third persons. The person for whom such act is done or who is so represented is called the principal. Any person who is of the age of majority according to the law to which he is subject and who is of sound mind may employ an agent. Any person may become an agent but if he is not of the age of majority and of sound mind though he can bind the principal in transactions with third person will not be himself liable to the principal. No consideration is necessary for creating an agency.

Agent's authority and its Revocation — The authority of an agent may be expressed or implied. An authority is express when it is given by words spoken or written. It is implied when it is to be inferred from the circumstances of the case i.e. things spoken or written or the ordinary course of dealing. In mercantile transactions the agent's authority is generally determined by the usage or custom of the particular business in which the agent is employed.

When an agent is given an authority to do an act, he has authority to do every lawful thing which is necessary in order to do that act. An agent having an authority to carry on a business has authority to do every lawful thing necessary for the purpose or usually done in the course of conducting such business. e.g. A is employed by B residing in London to recover at Bombay a debt due to B. A may adopt any legal process necessary for the purpose of recovering the debt and may give a valid discharge for the same or where A constitutes B his agent to carry on the business of a ship builder, B may purchase timber and other materials and hire workmen for the purpose of carrying on the business.

In an emergency an agent has authority to do all such acts for the purpose of protecting his principal from loss as would be done by a person of ordinary prudence in his own case under similar circumstances. Thus an agent for sale may have goods repaired if it be necessary or for example, when A consigns provisions to B at Calcutta with instructions to send them immediately to C at Cuttack, B may sell them at Calcutta if they will not bear the journey to Cuttack without spoiling.

A *Sub agent* is a person employed by, and acting under the control of the original agent in the business of agency. An agent cannot lawfully employ a sub agent to perform acts which he has expressly or impliedly undertaken to perform himself unless by the ordinary custom of trade a sub agent may, or from the nature of the agency a sub agent must, be employed. Where a sub agent is properly appointed, the *principal* is, so far as regards third persons, *represented* by the sub agent and is bound by and *responsible* for his acts as if he were an agent originally appointed by the principal. The agent is responsible to the principal for the acts of the

sub-agent. The sub agent is responsible for his acts to the agent, but not to the principal except in case of fraud or wilful wrong in which case the principal can hold him responsible.

When, however an agent has *appointed a sub agent without authority*, he stands in relation to him as the principal and is responsible for his acts to the principal and third parties. The principal is not bound by the acts of such a sub agent nor is the latter responsible to the former.

Where an agent possesses express or implied authority to name another person to act for the principal in the business of the agency *Substituted agent*, and has so named a person such a person does not become a sub-agent but an agent of the principal for such part of the business of the agency as is entrusted to him. But in naming such a person the agent must take proper care and if he does this he is not responsible to the principal for acts of negligence of the substituted agent. Where acts are done by one person on behalf of another but without his knowledge or authority, he may choose to *rectify* or disown such acts. If he ratifies them they will have the force of valid acts. The ratification may be expressed or implied. When an act is ratified, it applies to the whole of the transaction of which the act formed a part.

When an authorised act, if done with authority would have the effect of subjecting a third person to damages or of terminating any right or interest of a third person, it cannot be made to have the same effect by ratification.

Finally, no valid ratification can be made by a person whose knowledge of the facts of the case is materially defective.

An agency may be terminated in any of the following ways (a) by the principal revoking his authority, or (b) by the agent renouncing the business of agency; or (c) by the completion of the business, or (d) by the agent or principal dying or becoming of unsound mind, or (e) by the adjudication of the principal as insolvent, or (f) by efflux of the time fixed or (g) by the determination of subject matter or (h) by any other incapacity of the principal or of the agent. The termination of the authority of agent causes the termination of the authority of sub-agents.

Agent's duty to the Principal.—An agent is bound to conduct the business of his principal according to the directions given by him or in the absence of any such directions according to the custom which prevails in doing business of the same kind at the place where the agent conducts such business. Further the agent is bound to conduct the business of the agency with as much skill as is generally possessed by persons engaged in similar business unless the principal has notice of his want of skill. Again he is bound to render proper accounts to his principal on demand. In cases of difficulties he is bound to use all reasonable diligence in communicating with his principal and in seeking to obtain his instructions. An agent is not entitled to make any profit for himself out of transactions into which he may have entered in the course of employment as an agent beyond the agreed commission. Such profits belong to the principal, and he is even entitled to repudiate the transaction if necessary. If an agent, without the knowledge of the principal deals in the business of the agency on his own account (i.e., as principal) instead of on account of his principal the principal is entitled to claim from him any benefit he may have derived from the

transaction. Finally, he cannot delegate his authority to another person unless specifically authorised or permitted by the custom of the trade or the nature of the agency.

Rights of an agent — An agent is entitled to receive remuneration or reward for his work as may be agreed upon between him and the principal. In the absence of any special contract payment for the performance of any act is not due to him until he has completed it. But if an agent is guilty of misconduct in the business of agency he is not entitled to any remuneration in respect of that part of the business which he has misconducted. Subject to this provision he may retain out of sums received on account of the principal in the business of the agency all moneys due to himself in respect of advances made by him in conducting such business and also such remuneration as may be payable to him for acting as agent. In addition, in the absence of any contract to the contrary, he is also entitled to retain goods papers and other property whether moveable or immovable of the principal received by him until the amount due to himself for his commission, disbursements, and services has been paid or accounted for to him. Further he is entitled to be indemnified by the principal against the consequences of all lawful acts done by him in exercise of the authority conferred upon him. He is also entitled to be indemnified for acts done in good faith though they may cause an injury to the rights of third persons and therefore unlawful. If he is employed to do a criminal act, if he cannot claim to be indemnified against the consequences of such an act. But he is entitled to receive compensation from the principal in respect of injury caused to him by the principal's neglect or want of skill. However no compensation is due to

him if the injury results from his own negligence or acquiescence if he had the knowledge of the risk of the agency

Liability of the Principal—A contract entered into through an agent and obligations arising from acts done by an agent may be enforced in the same manner and will have the same legal force as if the contract had been entered into and the steps done by the principal in person. Where the agent acts *ultra vires* his authority if the authorised and unauthorised parts of the act could be separated only the former part is binding between him and the principal. But if the above mentioned acts cannot be separated the principal is not bound to recognise the transaction. Any notice given to or information received by the agent in the course of business transacted by him for the principal shall as between the principal and third parties have the same legal consequences as if it had been given to or obtained by the principal. The principal would be bound by even unauthorised acts of the agent if he has by his words or conduct induced third persons to believe that such acts and obligations were within the scope of the agents authority. A principal is also liable for the frauds committed or misrepresentations made by an agent acting in the course of his business for him, but if frauds committed or misrepresentations made do not fall within the authority of the agent, they do not effect the principal.

When can an Agent sue and be sued personally.—

As a general rule, unless there is a contract to the contrary, neither an agent can personally enforce contracts entered into by him on behalf of his principal nor is he personally bound by them. Such a contract to the contrary may be presumed in the following cases —

himself before the contract is completed, the other contracting party may *refuse to fulfil the contract*, if he can show that, if he had known who was the principal in the contract or if he had known that the agent was not a principal he would not have entered into the contract. Where one makes a contract with another neither knowing nor having a reasonable ground to suspect that the other is an agent, the principal, if he requires the performance of the contract can only obtain it subject to the rights and obligations subsisting between the agent and the other party to the contract.

CHAPTER XII

LAW REGULATING SALE OF GOODS

The present Indian sale of Goods Act regulating sale of goods was passed in 1930. Before that certain sections—Sec. 76—123—Of the Indian Contract Act of 1872 contained provisions regulating sale of goods. But with the elapse of time, a separate and comprehensive law was felt necessary. Hence the legislature enacted the present law in 1930, which is mainly based on the English Model.

Sale and Agreement to Sell—A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price. When the property in goods is transferred from the seller to the buyer, the contract is called a *Sale*, but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an *agreement to sell*. Such an agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred. Thus the deciding criterion of determining whether there was a sale or merely an agreement to sell is the transfer or "passing" of property.

A contract of sale is made by an offer to buy or sell goods for a price and the acceptance of such an offer. The contract may provide for the immediate delivery of the goods or immediate payment of the price or both, or for the delivery or payment by instalments, or that the delivery or payment or both shall be postponed. A contract

of sale may be made in writing or by word of mouth, or partly in writing and partly by word of mouth, or may be implied from the conduct of the parties

The goods which form the *subject matter* of a contract of sale may be either existing goods owned or possessed by the seller, or future goods. There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency which may or may not happen. In this connection the term goods means every kind of moveable property other than actionable claims and money and includes stocks and shares, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale. *specific goods* mean goods identified and agreed upon at the time a contract of sale is made. *future goods* mean goods to be manufactured or produced or acquired by the seller after the making of the contract of sale.

Where there is a *contract for the sale* of specific goods, the contract becomes void if the goods, at the time when the contract was made, have *perished* without the knowledge of the seller or becomes so damaged as no longer to answer to their description in the contract. Further, when there is an *agreement to sell* specific goods and subsequently the goods without any fault on the part of the seller or buyer *perish* or become *so damaged* as no longer to answer to their description in the agreement *before the risk passes to the buyer* the agreement becomes void.

Price The price in a contract of sale may be fixed by the terms of the contract or may be left to be fixed in a manner thereby agreed or may be determined by the course of dealing between the parties. Where price is not determined in accordance with the foregoing provisions, the buyer shall pay a reasonable price to the seller. What is a reasonable price will usually depend

on the nature of each particular case. If however the price is to be fixed by the valuation of a third party and such third party cannot or does not make such valuation, the agreement becomes void, but if the goods or any part of them have been delivered to be appropriated by the buyer, he should pay a reasonable price for such goods. In cases where the third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain a suit for damages against the party in fault.

Conditions and Warranties—In contracts of sale of goods there are certain stipulations made by the parties in regard to goods. The stipulation may be a condition or a warranty. A *condition* is a stipulation essential to the main purpose of the contract and the breach of it gives rise to a right to treat the contract as repudiated. A *warranty* is a stipulation collateral to the main purpose of the contract and a breach of it gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated. Whether a stipulation is a condition or a warranty would depend in each case on the construction of the contract. A stipulation may be a condition though it may have been characterised as a warranty in the contract.

As a general rule, unless a different intention appears from the terms of the contract stipulations as to time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of the essence of the contract or not would depend on the terms of the contract. Stipulations other than those relating to the time of payment are regarded as essential in mercantile transactions.

Though a breach of condition gives rise to a right to repudiate the contract, the buyer may waive the condition

or treat the breach of condition as a breach of warranty. But where the buyer has accepted all the goods or part of them or where the property in goods has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty unless it is specially provided to the contrary by the terms of the contract.

Implied Conditions and Warranties—Unless it can be proved otherwise there are certain conditions and warranties which are implied, or not stated expressly and therefore are binding between parties to a contract of sale. They are —

- (a) an implied condition on the part of the seller that he has a right to sell the goods and that, in the case of an agreement to sell he will have a right to sell the goods at the time when the property is to pass,
- (b) an implied warranty that the buyer shall have and enjoy quiet possession of the goods,
- (c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made,
- (d) an implied condition in the sale of goods by description that the goods shall correspond with the description, if the sale is by sample as well as description, goods must comply with sample as well as description,
- (e) an implied condition regarding the fitness of goods for a particular purpose where the buyer expressly or by implication makes known to the seller the particular purpose for which goods are required so as to show that he

relies on the seller's skill or judgment and the goods are of a description which it is in the course of the seller's business to supply (whether he is the manufacturer, or producer or not) but if the sale is of a specified article under its patent or other trade name, there is no implied condition as to its fitness for any particular purpose

- (f) an implied condition that the goods shall be of a merchantable quality where goods are bought by description from a seller who deals in goods of that description, but if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed,
- (g) in a contract for sale by sample there is an implied condition that (1) the bulk shall correspond with sample in quality (2) the buyer shall have a reasonable opportunity of comparing the bulk with the sample, (3) the goods shall be free from any defect rendering them un-merchantable which would not be apparent on reasonable examination of the sample

Transfer of Property in Goods — The transfer of property in goods determines the rights and liabilities of various parties to a contract of sale. The following rules govern the transfer of property in goods between the seller and the buyer

- (a) Where there is a contract for the sale of *unascertained* goods, property in the goods is not transferred to the buyer until the goods are ascertained,

- (b) Where there is a contract for the sale of *specific or ascertained* goods the property in them is transferred to the buyer at such a *time* as the parties to the contract intended it to be transferred the intention of the parties can be ascertained *from the terms of the contract the conduct of the parties and the circumstances of the case* Unless proved otherwise the rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer are
- (1) Where there is an unconditional contract for the sale of specific goods in a deliverable state the property in the goods passes to the buyer when the contract is made and it is immaterial whether the time of payment of price or the time of delivery of the goods or both is postponed
 - (2) Where there is a contract for the sale of specific goods and the seller is bound to do some thing to the goods for putting them into a deliverable state until such thing is done and the buyer is given notice of it, the property in the goods does not pass
 - (3) Where there is a contract for the sale of specific goods in a deliverable state but the seller is bound to weigh, measure, test or do so other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has been given notice of it
 - (4) Where there is a contract for the sale of *uncertained or future goods* by description, and

goods of that description and in a deliverable state or unconditionally appropriated to the contract, either by the seller with the assent of the buyer or by the buyer with the assent of the seller the property in the goods there upon passes to the buyer. Such assent may be express or implied, and may be given either before or after the appropriation is made.

It may be noted that when the seller delivers the goods to the buyer or to a carrier or other bailee for the purpose of transmission to the buyer, and does not reserve the right of disposal, he will have unconditionally appropriated the goods to the contract, but if he reserves the right of disposal until certain conditions are fulfilled, the property in the goods does not pass to the buyer until such conditions imposed by the seller are fulfilled.

- (5) When goods are delivered to the buyer on approval or "on sale or return basis" or other similar terms the property therein passes to the buyer when he signifies his approval or acceptance or does any other act adopting the transaction, or if he does not signify his approval or acceptance but retains the goods without giving notice of rejection, then, property passes to the buyer if a time has been fixed for the return of the goods, on the expiration of such time, and if no time has been fixed, on the expiration of a reasonable time.

Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred

to the buyer, the goods are at the *buyer's* risk whether delivery has been made or not. But if the delivery has been delayed through the fault of either the buyer or the seller the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault.

Transfer of Title to Goods -- The owner of goods or one who possesses his authority to sell can transfer title to goods. But when goods are sold by a person who is not their owner or who does not sell them under the authority or with the consent of the owner the buyer acquires no better title to the goods than the seller had unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell. But by the application of this rule in certain cases innocent buyers are likely to suffer when they buy in good faith and for a full value from persons who are in actual possession of the goods but whose title is defective. Hence the following exceptions are provided to the above general rule.

(a) Where a mercantile agent is with the consent of the owner in possession of the goods or of a document of title to the goods, any sale made by him when acting in the ordinary course of business of a mercantile agent shall be as valid as if he were expressly authorized by the owner of the goods to make the same, provided that the buyer acts in good faith and has not at the time of the contract of sale notice that the seller has not authority to sell.

(b) If one of several joint owners of goods has the sole possession of them by the permission of the co-owners, the property in the goods is transferred to any person who buys them of such joint owner in good faith and has not

at the time of the contract of sale notice that the seller has not authority to sell

- (c) When the seller of goods has obtained possession of them a voidable contract, but the contract has not been rescinded at the time of the sale the buyer acquires a good title to the goods if he buys them in good faith and without notice of the defective title.
- (d) When a seller who continues to be in possession of the goods or of the documents of title to the goods, sells them against the second buyer, if he buys them in good faith and without any notice of the previous sale, acquires a valid title to the goods
- (e) When a buyer obtains possession of the goods or the documents of title to the goods with the consent of the seller and sells, pledges or disposes them in any other manner, any person receiving them in good faith and without notice of any lien or other right of the original seller acquires a good title to them as if such lien or right did not exist.'

Performance of the contract—The following rules lay down the method carrying out a contract. According to them it is the duty of the seller to deliver the goods and of the buyer to accept and pay for them according to the terms of the contract of sale, and unless there is an agreement to the contrary, delivery of the goods and payment of the price are concurrent conditions, i.e., the seller shall be ready and willing to give possession of the goods to the buyer in exchange for the price, and the buyer shall be ready and willing to pay the price in exchange for the possession of the goods

Delivery.—Delivery of goods sold may be made by doing anything which the parties agree shall be treated as delivery or which has the effect of putting the goods in the possession of the buyer or of any person authorized to hold them on his behalf. A delivery or part of goods, in progress of the delivery of the whole has the same effect for the purpose of passing the property in such goods, as a delivery of the whole. But a delivery or part of the goods with an intention of severing it from the whole, does not operate as a delivery of the remainder. It may be also noted that, unless otherwise provided, the seller of goods is not bound to deliver them until the buyer applies for delivery.

Further, it is provided that in the absence of an agreement goods sold are to be delivered at the place at which they are at the time of the sale, and goods agreed to be sold are to be delivered at the place at which they are at the time of the agreement to sell, or if not then in existence, at the place at which they are manufactured or produced. Where under the contract of sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed, he is bound to send them within a reasonable time.

If, however, the goods at the time of sale are in the possession of a third person, there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf.

If the terms of the contract authorise or require the seller to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer, or delivery of the goods to a wharfinger for safe custody, is *prima facie* deemed to be a delivery of the goods to the buyer. In making the necessary contract with a wharfinger or carrier,

the seller must try to safeguard the interests of the buyer when goods are in their custody, otherwise if loss or damage occurs the buyer may hold the seller responsible. If the goods have to be conveyed over seas, the seller must give such notice to the buyer as may enable him to insure them during their sea transit, and if the seller fails to do it the goods shall be deemed to be at his risk during such sea transit.

When the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts the goods so delivered he shall pay for them at the contract rate. But if the seller delivers to the buyer a quantity of goods larger than he contracted to sell the buyer may accept the goods included in the contract and reject the rest, or he may reject the whole. If the buyer accepts the whole of the goods so delivered he shall pay for them at the contract rate. If the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest, or may reject the whole. Unless otherwise agreed the buyer of goods may not accept delivery of goods by instalments. If, however, there is a contract for the sale of goods by stated instalments which are to be separately paid for and if the seller makes no delivery or makes defective delivery in respect of one or more instalments, or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case, whether the breach of contract is a repudiation of the whole contract or whether it is a severable breach giving

rise to a claim for compensation, but not to a right to treat the whole contract as repudiated

When goods are delivered to the buyer which he has not previously examined he will not be deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract. Hence, unless otherwise provided, when the seller tenders delivery of goods to the buyer, he is bound to afford the buyer on his request a reasonable opportunity of examining the goods for the purpose of determining as to whether or not they are in conformity with the contract. The buyer will be regarded to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller, or when after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them. When goods are delivered to the buyer and he refuses to accept them, having such a right, he is not bound to return them to the seller, but it is sufficient if he intimates to him to the effect that he refuses to accept them.

When the seller is ready and willing to deliver the goods and request the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods; this, however, will not affect the rights of the seller when the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract.

Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are

when sold, he shall, nevertheless, unless otherwise agreed take any risk of deterioration in the goods necessarily incident to the course of transit

Unpaid seller and his right — A seller will be regarded as *unpaid* when the whole of the price has not been paid or tendered, or when a bill of exchange or other negotiable instrument has been received as conditional payment and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise. In connection with the above description of an unpaid seller a seller means any person who is in the position of a seller, as for instance, an agent of the seller to whom the bill of lading has been endorsed or a consignor or agent who has himself paid, or is directly responsible for the price.

Even though the property in goods may have passed to the buyer, the unpaid seller has the following rights: (a) a *lien* on the goods for the price while he is in possession of them, (b) in case of the insolvency of the buyer a right of *stopping the goods in transit* after he has parted with their possession (c) a right of *resale*. Where the property in the goods has not passed to the buyer, he has in addition to his other remedies, a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage in transit where the property has passed to the buyer.

Lien is a "right which a person has to retain that which is in his possession belonging to another until certain demands of the person in possession are satisfied". An unpaid seller who is in possession of them is entitled to retain their possession until payment or tender of the price in the following cases

- (1) Where the goods have been sold without any stipulation as to credit

- (2) Where the goods have been sold on credit, but the term of credit has expired
- (3) Where the buyer becomes insolvent.

The seller can exercise this right even though he is in possession of the goods as an agent or bailee of the buyer, or when part delivery of the goods has been made he can exercise his right on the remainder unless such part delivery has been made under such circumstances as to show an agreement to waive the lien. The unpaid seller's lien is a particular and not a general lien.

This right of lien of the unpaid seller is terminated :
(a) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal to the goods (b) when the buyer or his agent lawfully obtains possession of the goods, (c) by its waiver. The lien, however, is not lost only because the seller has obtained a decree for the price of the goods.

After the unpaid seller has parted with the possession of the goods if the buyer becomes insolvent the unpaid seller has a right *to stop them in transit* and resume their possession and retain them until payment or tender of the price. Goods are deemed to be *in the course of transit* from the time when they are delivered to a carrier or other bailee for the purpose of transmission to the buyer, until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee. If the buyer or his agent obtains delivery of the goods before their arrival at the appointed destination, the transit is at an end. If after the arrival of the goods at the destination, the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent, the transit is at an end and it is

immaterial that a further destination for the goods may have been indicated by the buyer. If the goods have been rejected by the buyer and the carrier or other bailee continues in possession of them, the transit is not deemed to be at an end, even if the seller has refused to receive them back. When the goods are delivered to a ship chartered by the buyer, it is a question depending on the circumstances of the particular case whether they are in the possession of the master as a carrier or as agent of the buyer where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent the transit is deemed to be at an end. Where part delivery of the goods has been made to the buyer or his agent the remainder of the goods may be stopped in transit, unless such part delivery has been given in such circumstances as to show an agreement to give up possession of the whole of the goods.

The unpaid seller may exercise his right of stoppage in transit either by taking actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice to be effectual shall be given at such time and in such circumstances that the principal, by the exercise of reasonable diligence, may communicate it to his servant or agent in time to prevent a delivery to the buyer. When notice of stoppage in transit is given by the seller to the carrier or other bailee in possession of the goods, he shall re-deliver the goods to or according to the directions of the seller. The expenses of such re-delivery shall be borne by the seller.

The unpaid seller's right of lien or stoppage in transit is not effected by any sale or other disposition of the goods

which the buyer may have made unless the seller has consented to it. But if a document of title to goods has been issued or lawfully transferred to any person as buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for consideration, then if such last mentioned transfer was by way of sale the unpaid seller's right of lien or stoppage in transit is defeated if however such last mentioned transfer was by way of pledge or other disposition for value the unpaid seller's right of lien or stoppage in transit can only be exercised subject to the rights of the transferee. When the transfer is by way of pledge the unpaid seller may require the pledgee to have the amount secured by the pledge satisfied in the first instance as far as possible, out of any goods or securities of the buyer in the hands of the pledgee and available against the buyer. The effect of stoppage in transit or the exercise of the right of lien is not to rescind the contract between the parties or to vest properties in the goods in the unpaid seller.

Right of Resale—Where the goods of a perishable nature or where the unpaid seller who has exercised his right of lien or stoppage in transit gives notice to the buyer of his intention to resell the unpaid seller may if the buyer does not pay or tender the price within a reasonable time resell the goods within a reasonable time further he may recover from the original buyer damages for any loss occasioned by his breach of contract, but the buyer shall not be entitled to any profit which may occur on the resale. But if such notice is not given, the unpaid seller shall not be entitled to recover such damages and the buyer shall be entitled to the profit, if any, on the resale.

When an unpaid seller who has exercised his right or stoppage in transit resells the goods the new buyer

acquires a good title to them as against the original buyer, notwithstanding that no notice of the resale has been given to the original buyer

When the seller expressly reserves a right of resale in case the buyer should make default and on the buyer making default, resells the goods, the original contract of sale is thereby rescinded, but without prejudice to any claim which the seller may have for damages

Auction Sale—In the case of a sale by auction, where goods are put up for sale in lots, each lot is *prima-facie* deemed to be the subject of a separate contract of sale, the sale is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner, and until such announcement is made any bidder may retract his bid. A right to bid may be reserved expressly by or on behalf of the seller, and where it is done, the seller or any one person on his behalf may bid at the auction, but if the sale is notified as subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person, and any sale contravening this rule may be treated as fraudulent by the buyer. The sale may be notified to be subject to a reserved or upset price. If the seller makes use of pretended bidding to raise the price, the sale is voidable at the option of the buyer.

Seller's Remedies—When a contract has been broken by the buyer, the seller acquires certain rights which compensate him for his losses. The rights of an unpaid seller *viz.*, lien, stoppage in transit and resale have been already discussed. These remedies however, merely protect him from additional losses, but do not compensate him for the breach of contract.

Where, therefore, the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may sue him for the price of the goods. If the price is payable on a day irrespective of delivery and the buyer wrongfully neglects or refuses to pay such price, the seller may sue him for the price although the property in the goods has not passed and the goods have not been appropriated to the contract. If the buyer wrongfully neglects or refuses to accept and pay for the goods the seller may sue him for damages for non acceptance.

Buyer's Remedies—When the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may sue him for damages for non delivery. In certain just cases the court may even direct specific performance of the contract by the seller. If however the seller supplies the goods but in doing so has committed a breach of condition the buyer may reject the goods and claim damages, or if he chooses, he may accept the goods at his option, treat the breach of condition as one of warranty and claim only damages. Further where there is a breach of warranty by the seller, or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty the buyer may set up against the seller the breach of warranty in diminution or extinction of the price, when the seller brings a suit for the price or sues the seller himself for damages for breach of warranty.

Anticipatory Breach of Contract—Where either party to a contract of sale repudiates the contract before the date of delivery, the other may either treat the contract as subsisting and wait till the date of delivery, or he may treat the contract as rescinded and sue for damages for the breach.

CHAPTER XIII

POSTAL AND TELEGRAPHIC INFORMATION.

All civilised countries today have been provided with the postal and telegraph services mostly by their governments. In the beginning the post office performed the work of merely carrying letters but today it performs a number of functions which have become quite familiar to us. These functions are (1) carrier or postal services carrying letters and packages from one place to another (2) banking services undertaking to remit money or accepting money on deposit in the savings bank, (3) insurance services providing the facility of registering or insuring letters or parcels (4) means of communication providing the telegraph and the telephone services, (5) agent for the Government undertaking to sell the revenue stamps, issuing radio licences, etc. These functions play such a useful part in our life that their importance needs no emphasis. They are discussed briefly in the following pages.

In India, the Postal and Telegraph* system is under the control of the Government of India. For the purpose of administration the Indian Empire is divided into eight postal circles, (1) Bombay, (2) Madras, (3) Bengal and Assam, (4) United Provinces, (5) The Punjab, and N.W.F., (6) Bihar and Orissa, (7) Central Provinces and (8) Sind.

*The information given in this chapter is taken from the Post and Telegraph Guide issued in September 1938. Since the outbreak of the present war many restrictions have been placed and changes made in the services. Wherever possible they are given in the foot notes.

and Baluchistan. Each of these circles is in the charge of a Post Master General except in the case of Sind and Baluchistan where the designation of the same authority is the Director of Post and Telegraph. The final control over all these circles is centralised in the hands of the Director General of Posts and Telegraph New Delhi.

Each above named circle is further divided into divisions each one of which is under the supervision of a Superintendent. In supervising and inspecting his division he is helped by a number of Inspectors who are subordinate to him.

The central post or telegraph office is known as the G P O (General Post Office) or the G T O (General Telegraph Office) respectively. The general classification of other post offices is as follows: Head Offices, Sub Offices and Branch Offices. A large number of these offices perform both the postal and telegraph work.

Every business man and commercial office must know the post office facilities and rates. The necessary information can be had from the Post and Telegraph Guide published annually in September, and sold for one rupee. Smaller Pocket Guides are available for one anna. In large commercial offices, the postal work is generally left to a junior clerk. He should possess an upto date information about Postal and Telegraph Services.

Inland Post

The inland post ordinarily means the post maintained by the Government of India by land or by sea or by air (1) between any places in British India, (2) between any places in British India and places beyond the limit of British India at which there are Indian post offices, and (3) between any places beyond the limits of British India at which there are Indian post offices. For the purpose of inland post, postal articles are divided into six categories

and for each one a separate rate is charged. These articles are (a) letters (b) post cards (c) books and pattern packets (d) *blind literature* packets (e) registered news papers and (f) parcels

Letters — The *prepaid* rates on letters are as follows

Not exceeding *one tola* in weight

One and
a quarter anna

For every additional tola or its fraction

Half anna

If a letter is not stamped at all or not sufficiently stamped it will be charged on delivery twice as much as the necessary postage

As regards letters posted in Cutch and Kathiawar and meant for being delivered outside if they contain dutiable goods a green label obtainable at any post office should be pasted on the outside and the nature weight and value of the goods should be written on it. Otherwise letters are liable to be confiscated by the customs authorities

Postcards — The *prepaid* rate for postcards is as follows

Single postcards 9 pies

Reply postcards $1\frac{1}{2}$ annas

These postcards are sold by the post office. Postcards of private manufacture may be sent if postage is prepaid. The size of such postcards should not be greater than $5\frac{1}{2}$ by $4\frac{1}{8}$ in or less than 4 in by $2\frac{1}{8}$ in. As regards the substance they should be neither thicker nor more flexible than the postcards issued by the postoffices

If a postcard is posted without full postage being prepaid, it will be destroyed forthwith

Book Packets The book packets may contain (a) newspapers, publications of all kinds, printed music books, (b) maps, pictures, and drawings; (c) business, commercial and legal documents, like deeds, accounts; proposals for insurance and insurance policies, (d) manuscripts for press, (e) written letters of old date which have previously passed through the post and have served their original purpose. No personal communication can be enclosed in or written upon a book packet

Pattern packets may contain bonafide patterns or samples of merchandise not having any saleable value together with any matter which may be sent as a book packet. They may also contain objects of natural history, geological specimens, etc

Book packets and pattern packets must be posted without a cover, or with a cover open at both ends, or in an unfastened envelope or with any other cover which can be easily removed so as to admit of a ready examination of its contents. If a book or pattern packet is posted unpaid, it is charged on delivery with double the necessary postage; if the stamps are not sufficient on delivery the addressee will be charged with double the deficiency

Rates for book and pattern packets —

For the first 5 tolas or a fraction thereof
nine pies

For every additional $2\frac{1}{2}$ tolas or a fraction thereof, in excess of two and half tolas
Three pies

Blind Literature Packets — Periodical, papers or books impressed in "Braille" for the use of the blind are carried by the post office for lower rates. They are marked as "Literature for the Blind"

Registered Newspapers — Registered newspapers are given the following concessional rates for the transmission of their newspapers

To secure these rates, a newspaper must be registered with the Post Master General of the circle in which it is Published Post age must be prepaid

Weight not exceeding 10 tolas	3 pies
weight exceeding ten tolas but not exceeding 20 tolas	6 pies
Every additional 20 tolas or a fraction thereof	6 pies

Parcels Practically anything can be sent by the parcel post unless it is expressly prohibited by the postal rules (vide cl 96, 97, 98 of the Postal guide)

All parcels exceeding 440 tolas must be registered parcels above 1000 tolas will not be accepted for transmission by the post office.

The length of the parcel must not exceed $3\frac{1}{2}$ ft. and the length of the girth combined must not exceed 6 ft. A parcel may

contain a single written communication of the nature of a letter or having the character of a personal communication addressed to the addressee of the parcel

If a parcel is suspected to contain any written communication other than one permitted above the parcel may be opened in the presence of the addressee or his authorised agent and if any unauthorised communication is found, it shall be charged on delivery with double the letter postage. All postage on parcels must be paid in advance so also the registration fee if the parcel is registered

The following are the rates for parcels -

Not exceeding 40 tolas	4 annas
For every additional 40 tolas or a fraction thereof upto 1000 tolas	4 annas

Registration—Letters, postcards book and pattern packets, parcels and newspapers prepaid with postage at newspaper rates of postage can be sent by registered post. When they are registered, the postal authorities undertake to use special care in their transmission but if during transmission the registered articles are lost or their contents damaged the post office is not responsible.

The registration fee is 3 annas in addition to the usual postage. It must be paid in advance. If the sender wants an acknowledgement of the delivery of the registered article signed by the addressee, an additional fee of one anna is charged and it must be paid in advance.

Registration is compulsory in the following cases

- (1) any parcel exceeding 440 tolas in weight,
- (2) any insured article,

- (3) any parcel addressed to a place for which a *custom's declaration is required*,
- (4) any article containing valuables, *e g*, cheques, bills of exchange bank notes, etc
- (5) any article bearing the word 'registered' ;
- (6) any registered article which is re-posted after having been delivered
- (7) any V P article

Insurance—Registered letters, value payable registered letters registered parcels and value payable registered parcels may be insured up to the value of Rs 600 at such branch post offices and up to the value of Rs 3,000 at such other offices as are authorised to accept articles for insurance and for such post offices as are authorised to deliver insured articles. The insured value must not exceed the actual value of the contents. In the case of insured articles the post office undertakes to hold itself liable for all risks in the course of their transmission.

Every article intended for insurance must be properly enclosed or packed and sealed with fine wax bearing a private mark (for details, see the Post and Telegraph Guide). The amount for which the article is to be insured must be clearly written, without erasures or corrections, in words and figures on the cover. Similarly the name and the address of the sender must also be written on the cover in the left hand corner, or on a separate slip of paper to be presented with the article, if there is no room for such name and address on the cover. If these conditions are not observed, the article will not be accepted for insurance.

As regards delivery of the insured articles, an article insured for Rs 250 or any sum less than Rs 250 will be delivered to the addressee by the postman, but if the amount exceeds Rs 250, the article will be delivered only

at the post office to the address or his authorised agent. If it is suspected that the article has been tampered with it will be opened in the post office in the presence of the post master and its contents will be entered in an inventory, a copy of which will be forwarded to the sender. When the addressee accepts delivery of the article he must sign an acknowledgment of the receipt of the article.

An acknowledgment of the delivery of the article signed by the addressee is sent free of charge to the sender.

When the contents of letters or parcels are coins, bullion, platinum, precious stones, jewellery, currency notes or articles of gold or silver insurance is compulsory.

When the insured article or any of its contents are lost or damaged the compensation payable will in no case exceed the amount of the loss or damage. After compensation for the loss of the article or any of its contents has been paid if the contents are subsequently recovered, the post office is entitled to retain and dispose of the recovered contents.

The following are the fees for insurance in addition to the usual postage and one fee for registration. Prepayment of fees is compulsory.

Where the value insured does not exceed Rs. 100	3 annas
Where the value insured exceeds Rs. 100 but does not exceed Rs. 150	4 annas
Where the value insured exceeds Rs. 150 but does not exceed Rs. 200	5 annas
For every additional Rs. 100 or fraction thereof over Rs. 200 and up to Rs. 1,000	2 annas
For every additional Rs. 100 or fraction thereof over Rs. 1,000	1 anna

Value Payable Post —The value payable system is designed with a view to meet the requirements of persons who wish to pay for articles sent to them on receiving the articles or the railway receipt relating to them, and also to meet the requirements of traders and others who wish to recover, through the agency of the post office, the value of the articles supplied by them.

The articles that can be sent by V P system are registered parcels registered letters, registered book-packets and newspapers prepaid with postage at the newspaper rates of postage and with the registration fee, provided the amount of remittance to the sender does not exceed Rs 1 000 and does not include a fraction of an anna. Further the sender must declare that the article is being sent in execution of a *bona fide* order received by him. He must also fill in the prescribed printed form specifying the amount to be remitted to himself and sign the said declaration. In addition, he must write on the face of the article itself in the upper left-hand corner the letters V P followed by the amount of the remittance in figures and words and in the lower left hand corner his own name and full address.

As regards the delivery of V P articles, if the sum to be recovered exceeds Rs 50 the articles will be delivered only at the post office. In other cases the articles will be delivered in the usual manner by the postman at the address of the addressee.

The amount to be recovered from the addressee will be the sum specified by the sender for remittance to himself, plus 1 per cent calculated according to the M O charges for the amount to be remitted to the sender. When the said amount is recovered it will be remitted to the sender by means of a money order.

Money Orders A money order is an order granted by the post office for the payment of a sum of money through the agency of the post office. The amount for which a single money order may be issued must not exceed Rs 60. The sum payable must not include a fraction of an anna. The remitter of a money order is entitled to obtain free of charge an acknowledgement of the payment of the amount of the order signed by the payee.

Money orders can also be sent by the inland air mail or by the telegraph. The limits regarding the amount of the order by ordinary money order are applicable to them. The charges in the case of inland air mail money orders will be the usual money order charges plus a fee of one anna irrespective of the amount. The air mail fee of one anna should be paid in postage stamps which should be affixed to the money order form. The charges for the telegraphic money orders will be the usual money order charges plus the charges for the telegram.

The following are the rates for the issue of inland money orders —

On any sum not exceeding Rs 10/- 2 annas

“ “ . exceeding Rs 10/- but not exceeding Rs 20 4 annas

On any sum exceeding Rs 20/- 4 annas for each complete sum of Rs 25 and, 4 as for the remainder, provided that if the remainder does not exceed Rs 10 the charge for it shall be only 2 annas

Indian Postal Orders—The Indian Postal orders are available in the denominations of annas eight one rupee five rupees and 10 rupees. They can be had from all the head and sub post offices. The commission charged in respect of each order is one anna.

To make up broken amounts unused postage stamps not exceeding three in number may be affixed on the face of the postal orders of all denominations except Rs 10, provided that the total amount payable shall not exceed Rs 10 and provided also that a fraction of an anna shall not be included.

The postal orders must be presented for payment within three months from the last day of the month of issue, otherwise a commission of an additional anna will be charged. If they are not presented for payment within six months after the last day of the month of issue they will be forfeited.

After the postal order has once been paid to whomsoever it is paid the post office will not be liable for any further claim.

MISCELLANEOUS SERVICES

Express Delivery—Unregistered letters and postcards may be transmitted by post for express delivery to a place not more than 5 miles distant from a government telegraph office. The fee for express delivery is annas two in addition to the ordinary postage. When a letter or postcard is to be sent by express delivery post the words 'Express Delivery' should be written on them on the address side or preferably a label bearing those words supplied gratis by the post office should be used.

Business Reply Envelopes and Cards Business reply cards and envelopes will be transmitted by the post office without prepayment of the postage. It will be collected from the addressee in cash at the time of

delivering them. The fee for the permit to use business reply envelopes or cards is Rs 10 and is recovered from the applicant in advance. When such a permit is to be taken out, an application should be made to the Postmaster at the post office to which the cards or envelopes are to be returned. He will forward the application to the Postmaster General who will then issue the necessary permit.

Business reply cards and envelopes must be furnished by the applicant himself and must bear on the address side (a) the printed name and address of the person or concern to whom they are to be delivered, (b) the permit number (c) the name of the post office issuing the permit (d) the words Business Reply Cards or 'Business Reply Envelopes', (e) the inscription No postage stamp necessary if posted in India and (f) the words Postage will be paid by the addressee. In lieu of, or in addition to, furnishing the business Reply Cards or Envelopes, the user may incorporate in any advertisements issued by him in newspapers or other publications a special design containing the entries mentioned above to be used as a label and to be affixed to a card or envelope.

Business Reply Cards must conform in size, form and quality with the conditions prescribed for post cards of private manufacture.

Certificate of Posting — A certificate of posting may be obtained from the post office in respect of any postal article for which a receipt is not given. This facility is provided with the object of affording the public an assurance that letters and other articles entrusted to servants and messengers for posting have been actually posted. The fee for the certificate of posting is charged at the rate of half an anna for every three articles or for any less number.

Late Letters—An article of the letter post will be accepted at the post office window after the hour fixed for closing the mail if presented within the time allowed for the posting of late letters, and if stamped with both postage due and the prescribed amount of the late fee. In the case of all inland postal articles when posted in post offices authorised to accept late fee articles, the fee will be $\frac{1}{2}$ anna per article, but if they are posted in the R. M. S. offices or the train letter boxes the fee will be charged at the rate of 1 anna per article.

Recall of Articles Posted—Inland letters, postcards, registered newspapers, book and pattern packets and parcels, and foreign registered articles of the letter mail and foreign registered parcels which have not been despatched from India may be recalled, when in course of transmission by post, without reference to the consent of the addressee, subject to the following conditions:—

- (a) An application must be made in writing by the sender or any other person authorised by the sender to a superior postal authority. It must be accompanied by a statement showing the reasons for the recall of the article.
- (b) A fee of one rupee must be paid in respect of each article recalled.
- (c) An order for the re-delivery of the article must be obtained from the said superior authority.

Poste Restante—All articles superscribed "To be kept till called for", "To await arrival", or in any similar way, and also articles addressed "Post Office" are held to fall under the head "Poste Restante". The name of the addressee must be written clearly on such articles. The post office keeps these articles in the case of port towns for three months and in all other cases for one

month. This facility is primarily provided for stranger and travellers who may not have a fixed address. The responsibility of the post office is limited to retaining such articles in deposit for the prescribed period.

Identification Cards — Identity cards are issued by the post office for the convenience of tourists, travelling representatives of firms and the general public who experience difficulty in establishing their identity in connection with postal transactions, i. e., receipt of registered and insured articles and payment of money orders. The fee for a card is rupee one. The card remains current for a period of three years from the date of its issue.

Post Boxes and Bags — A post box may be rented in places where the system is in operation. The post box bears a number which is assigned to it. This can be used as the postal address of the renter. The fee for an official year is Rs 15. The fee charged for a period of less than one year is Rs 5 for every three calendar months or a portion thereof. In addition, a deposit to cover the cost of a post box lock is taken from the renter.

If desired a private bag may be rented in addition to, or as an alternative to, the post box. The bag which must be provided with a lock and duplicate keys is not supplied by the post office. The fee for a private bag is Rs 24 for each official year. The fee for a period of less than one year is charged at the rate of Rs 8 for three calendar months or a portion thereof.

Post Office Cash Certificates — The post office cash certificates for Rs 10, 20, 50, 100, 500 and 1000 can be obtained from any post office doing savings bank business at fixed issue prices. When cash certificates have to be purchased an application must be made in the prescribed form which may be obtained from the post office. The total value

of cash certificates which may be held by one person is limited to Rs 10 000

Wireless Licenses and Certificates—Under the Indian Telegraph Act, 1885, a license is required to use a wireless apparatus. The fee for a Broadcast Receiver license is Rs 10. The renewal fee is Rs 8 per annum. These licenses can be obtained from the head post offices and certain sub post offices. A license is also required to import into British India wireless transmitting apparatus. The license can be obtained from the Director General of Posts and Telegraphs. The fee for an Import License is Rs 10 per annum. Dealers in wireless apparatus must also obtain a 'Protection' license to possess wireless apparatus. The fee is Rs 10 per annum. The license can be obtained from the Postmaster General or Director, Posts and Telegraphs, of the circle. For the benefit of licensed dealers in wireless apparatus who wish to demonstrate wireless receiving apparatus at the residence of a prospective customer, demonstration licenses are issued by the Heads of circles to whom the necessary application should be made. The fee for a single demonstration license is Rs 5 for a period of 12 months from the first day of the month of issue.

Dead Letter Office—Articles the addressees of which are so illegible or incomplete as to render delivery impossible, are at once sent to the Dead Letter Office for disposal. In the D L O further attempts are made to read the addressees. If it is not possible to find the addressees either because the addressees are illegible or wrong or incomplete the articles are returned to the senders if possible, otherwise they are destroyed.

FOREIGN POST

Term Foreign Post means the post maintained either by land or by sea or by air between any two places

in British India or any place beyond the limits of British India at which there is an Indian Post office and any place beyond the limits of British India at which there is not an Indian Post Office

Postage on letters—The postage on letters for the following countries is $3\frac{1}{2}$ annas for weight not exceeding one ounce or part thereof Great Britain, Northern Ireland Egypt Canada, Australia Union of South Africa etc

The postage on letters for all other countries* colonies or places served by the foreign post with the exception of Aden, Ceylon Nepal and Portuguese India is $3\frac{1}{2}$ annas for the first ounce and two annas for every additional ounce or part of that weight

The postage on letters for Aden Ceylon Nepal and Portuguese India is the same as the postage on inland letters The postage on letters to Burmah is 1 anna for two tolas and 1 anna for every additional tola or $\frac{1}{2}$ part thereof

Postcards—The postage for single postcards is 2 annas for reply 4 annas The postage on postcards for Aden Ceylon Nepal Portuguese India is the same as the postage on inland postcards The postage on postcards for Burmah is 1 anna for each single card and two annas for each reply postcard

Printed Papers—The postage on a packet of printed papers is $\frac{1}{2}$ anna for every two ounces or part of that weight The rates for Aden Ceylon Nepal and Portuguese India are the same as in the case of inland post The rate for Burmah is $\frac{1}{2}$ anna for first five tolas and $\frac{1}{2}$ anna for every additional five tolas or part thereof Prepayment is compulsory

Business Papers—The postage on packet of business papers is $3\frac{1}{2}$ annas for the first 10 ounces and for every

* Service temporarily suspended to enemy countries

additional 2 ounces or part thereof $\frac{1}{2}$ anna. Rates for Aden, Ceylon, Nepal and Portuguese India are the same as inland rates. The rate for Burmah is $\frac{1}{2}$ anna for first five tolas and $\frac{1}{2}$ anna for every additional five tolas or part thereof. Prepayment is compulsory.

Sample Packets — The postage on a packet of sample is $\frac{1}{2}$ anna for every 2 ounces or part of that weight, subject to minimum charge of $1\frac{1}{2}$ annas for each packet, however small the weight. The rates for Aden, Ceylon, Nepal and Portuguese India are the same as in the case of inland post. The rate for Burmah is $\frac{1}{2}$ anna for first five tolas and $\frac{1}{2}$ anna for every additional tola or part thereof. Prepayment is compulsory.

Blind Literature packets — The postage rates are —
For every packet not exceeding 2 lbs.

	in weight	$\frac{1}{2}$ anna
" For every additional 2 lbs. up to 10 lbs.		$\frac{1}{2}$ anna
" For a packet exceeding 10 lbs. and up to 11 lbs.		$\frac{1}{2}$ anna

The postage for Aden and Portuguese India is the same as for inland post.

Prepayment of postage is compulsory.

Parcels — Foreign parcels are received at all head post offices and at all other important post offices for despatch. The rates for foreign parcels are different for different countries and should be ascertained from the Foreign Post Directory of the Post and Telegraph Guide. Prepayment of postage is compulsory. The registration of parcels is also obligatory. No separate fee is charged for such registration.

Parcels addressed to Great Britain and Northern Ireland are divided into two classes, viz., (1) those sent through the medium of the British Post Office and (2) those sent through the medium of the P & O S N Co.

Portuguese India, the Seychelles and British Somaliland in which the value should be stated in Indian currency. Undervaluation of the contents of a parcel or failure to describe them fully in the customs declaration, may result in the imposition of penalties, including confiscation in the country of destination. Declaration written on any but the prescribed form cannot be accepted. The customs declaration has to be securely pasted to the parcel before it leaves the post office and the sender should do this before presenting the parcel for despatch.

Registration — The registration fee which must be prepaid in stamps is three annas in all cases. If an acknowledgement is required, an additional fee of three annas must be paid except in the case of articles addressed to Aden, Ceylon, or Portuguese India.

Money Orders — The rates of commission on foreign money orders expressed in rupees are as follows, —

On any sum not exceeding Rs 10	... 3 annas
On any sum exceeding Rs 10 but not exceeding Rs 25	6 annas
On any sum exceeding Rs 25	6 annas for each complete sum of Rs. 25 and 6 annas for the remainder, provided that the remainder does not exceed Rs. 10 the charge for it shall be only 3 annas

The rates of commission on money orders expressed in sterling are

	Rs	as
On any sum not exceeding £ 1	0	4
" " " exceeding £ 1 but not exceeding £ 2	0	7
" " " £ 2 " " "	£ 3	0 10
" " " £ 3 " " "	£ 4	0 13
" " " £ 4 " " "	£ 5	1 0
On any sum exceeding £ 5	Re 1 for each complete sum of £ 5 and Re. 1 for the remainder, provided that if the remainder does not exceed £ 1, the charge for it	

A weekly air service between Bombay and Trichinopoly via Goa Cannanore and Trivandrum, in connection with the Kanchi Madras air mail service, and a twice-a-week air service between Bombay and Delhi via Indore Bhopal and Gwalior are operated by Messrs Tata Sons, Ltd during fair season.

Articles accepted and Air Mail fees—Inland article both registered and unregistered (but not insured articles or parcels) are accepted for transmission by air (1) between any two air stations in India (2) between any such station in India and Gwadar or Bahrain and (3) between Gwadar and Bahrain subject to the existing conditions applicable to inland articles. A blue air mail label (obtainable free at the post office) should be affixed to the article on the left hand top-corner of the address side. No superscription regarding the route is necessary on inland articles. Articles bearing the words *By Air Mail*, (instead of the air mail) label may also be posted but no responsibility is accepted by the post office for any delay which may occur on account of this indication being overlooked by the Post Office staff. The air fees on such articles are as shown below. The prepayment of the full air mail fee on postcards and money orders and of at least 25 percent of the air mail fee on letters and packets is compulsory.

For postcard	6 pies
For a letter or packet upto 1 tola	1 anna
Every additional tola or a fraction thereof	1 anna

The above rates of air mail fee also apply to air mail articles for Ceylon and Portuguese India.

For a money order (irrespective of the amount) 1 anna.

The above fees are payable on air mail articles in addition to ordinary postage, and registration and acknowledgement fees where necessary and the registration

Air service, England-India Australia Air service, Air service to Africa, Air service to Germany, Air Mail service to the United States of America, Air Mail to South America the Dutch and French Air Mail services to countries served through them on the payment of the prescribed air mail fee unless the country of destination is one of the countries mentioned above, for which no fee is required. Insured articles are accepted only for Burmah and Ceylon. Parcels are not accepted for any country. The following conditions must be observed —

- (a) Each article besides conforming to the postal regulations regarding postage *etc.*, must bear in the left hand corner of the address side a blue air mail label. Articles addressed to foreign countries to which "surcharge" air mail service is applied should be clearly and conspicuously superscribed *in ink* above or below the blue label with the name of air route by which it is to be transmitted. If this procedure is not adopted articles are likely to be delayed. In case in which article is meant for transmission by air over a portion of the air route only, this should be indicated in French and English.
- (b) The air fee prescribed for the route to be paid in addition to the postage and the registration fee (in case of registered articles), must be prepaid in full on a foreign article. An inland air mail letter or packet must be prepaid with at least 25 per cent of the air mail fee to secure its transmission by air. Double the deficiency in the air mail postage and fee is recovered from the addressee on delivery and if the addressee refuses to take

delivery on payment, the amount is recovered from the sender. An inland air mail postcard must however be prepaid in full with postage and air fee to secure its transmission by air.

Air Mail Stamps, Envelopes and Postcards Air mail stamps of the denominations of 3 and 6 annas are available at important post offices. The prepayment of air fee or air fee and the postage combined may be made by means of the special air mail stamps, but at the same time it may be stated here that the use of ordinary postage stamps for air fee is allowed. These must be affixed on the obverse or the address side of the article. Air mail envelopes and postcards are also available from the post offices.

Air Mail Money Orders—Air mail money orders can be sent from any post office in India payable in foreign countries and places (for a list of countries, see sec. XII of the P and T Guide). The limits of value and other conditions applicable to ordinary foreign money orders will be applicable to air money orders. The commission will consist of (a) the money order commission at the rates applicable to ordinary money orders sent by the sea route, (b) an air mail charge at the rate of $1\frac{1}{2}$ annas for each money order drawn on Ceylon or Burmah and 2 annas for each money order drawn on any other country. The air mail fee should be paid in postage stamps. They should be affixed to the money order form itself. The words 'By Air Mail' should be written across the money order form. No air mail fee is charged on money orders to those countries to which the all op air mail rules are applicable.

Telegrams by Air Mail—Inland telegrams can be sent from any Government Telegraph Office in India for transmission by telegraph to (a) Karachi to be posted there as air mail letters for Iraq, Iraq, Palestine, Egypt, Great Britain and other countries in Europe, U S A.

and Canada, and (2) Calcutta to be posted there as air mail letters for Siam, Malaya, French, Indo-China, Japan, Philippine Islands, Sarawak, Dutch East Indies, Australia and beyond as well as Hong Kong. The charges will be calculated at the usual inland rates for telegrams plus the air mail fee in addition to the usual letter postage. No air mail fee, however, will be charged but the rate of postage will be $2\frac{1}{2}$ annas per half ounce in the case of Palestine, Egypt, Great Brit in and Northern Ireland, Canada, Malaya, Sarawak, Australia and New Zealand. If a message is to be registered before being posted the sender will have to pay in addition a registration fee of 3 annas per telegram.

These telegrams may be written either in code or plain language. For countries in the west, they should bear the words "PAV Karachi" (or if by registered post, "PAVR Karachi") after the name and the address on the form. In the case of the countries of the east the words should be "PAV Calcutta" or "PAVR Calcutta".

Telegrams

Telegrams are generally sent on urgent business when the time taken in communication by ordinary post is thought to be undesirable. As the charges for telegrams are comparatively high the sender must exercise care in securing accuracy of the message in the minimum of words. In writing telegrams, therefore the rules of grammar are not observed. All superfluous words and phrases are avoided. In short the words should be as few as possible without sacrificing the meaning and giving rise to ambiguity. All figures should be as far as possible expressed in words. Whenever a telegram is sent a copy of the telegram should be retained for reference and the telegram should be immediately confirmed by a letter.

Inland Telegrams

Telegram sent to or received from places in India, Burmah, Ceylon, Afghanistan or Lhasa (Tibet) are regarded as inland telegrams

Address The address on a telegram must contain all the particulars necessary to ensure a correct delivery of the telegram without search or enquiry. The address may be in the form of post office box number or telephone number, e.g. "Shah Post Box 382 Bombay" or "Shah Telephone 3432 Bombay"

An abbreviated address may be used in place of the full one. The fee for the registration of an abbreviated address is Rs 20/- yearly or Rs 12/- half yearly. Abbreviated addresses may be registered at all Licensed Telegraph Offices opened for paid telegraph traffic.

Code Language Telegrams may be written in either plain language or code language. Code language consists either of artificial words or of real words not used with their usual meaning or of a mixture of real words and artificial words.

Code words must not contain more than 10 letters having at least one vowel if they comprise of not more than five letters, at least 2 vowels, if they comprise of 6, 7, 8 letters and at least three vowels if they comprise of 9 or 10 letters. In words of more than five letters one vowel at least must be to the first five letters and at least one vowel to the rest of the word subject to the condition that in the case of words of 9 or 10 letters there must be 10 all at least three vowels.

Code words in telegrams to Burmah, however, are not subject to any restriction as to their formation. But they are limited to 5 letters to a word. Five letter code words can be used both in ordinary and express telegrams.

They can be also used in mixed telegrams containing plain words and code words.

The vowels are a e i o u and y.

Groups formed by combining two or more plain language words contrary to the usage of the language are not admitted. In a mixed telegram the rate of calculation will be 1 letter to a word for the plain language words as well as code language words.

Phonograms — Under the phonograms system arrangement is made at certain post office for receiving telegrams (except press telegrams) on telephone from telephone subscribers for being despatched to their destination. An additional fee of two annas is charged in respect of each such telegram.

The telegraph office will send a confirmatory copy of the message by the next first available post. Within five days of its receipt it must be presented at the nearest post office with postage stamps of the requisite value affixed thereto. The authorities will give a receipt for the charges paid. Or the subscriber may maintain a deposit account in the manner prescribed by the rules to which from time to time the charges will be debited.

Telegrams received from outside places will be telephoned free of charge to the telephone subscriber if the telegrams are addressed (1) to a person followed by the word telephone and his telephone number as 'Shri telephone 9837 Bombay' or (2) to a registered abbreviated address for which special instructions for delivery of telegrams by telephone have been registered by addressee. In other cases telegrams may be delivered by telephone with the consent of the addressee if the method is convenient to the telegraph office.

Deposit Account and Guarantee System — Arrangement is made at certain telegraph offices for the despatch

of telegrams without prepayment of charges on the following conditions —

(a) A deposit in cash or Government promissory notes or post office cash certificates of a sum equivalent to the estimated cost of *fourteen days* telegrams plus fees for the upkeep of accounts should be made at the telegraph office from which the telegrams are to be sent or (b) a letter of guarantee should be produced for an equivalent sum from a bank approved for the purpose by the Director General.

The telegraph office will render an account to the person concerned every week showing the cost of telegrams accepted under the arrangement and the fees charged for the upkeep of the account. The fees for the upkeep of the account will be at the rate of 12 annas for every 25 telegrams, despatched by the depositor plus 12 annas for the remainder of telegrams, if any.

Greetings Telegrams—Greeting telegrams are accepted for transmission at specially reduced rates on the following occasions (1) Christmas and New Year, (2) Dewali, (3) Birthday, (4) Id, (5) Confirmation of title, (6) Marriage (7) Examination (8) Bijoya, (9) Journeys (10) Elections (11) Acknowledgement for greetings etc.

The charges for such telegrams are 6 annas for ordinary and 12 annas for express according to the type of the telegram. It consists of 6 words—4 words for the name of the addressee and address, one word for greetings indicated by number and one word for the name of the sender. Every additional word is charged at the rate of one anna in ordinary and two annas in express telegrams. The message consists of stock phrases given in the P & T Guide CI 396 B.

Suitable gay coloured envelopes are used in delivering these greetings telegrams.